

STATE OF WEST VIRGINIA

SPECIAL REPORT

OF

**BLUEFIELD STATE COLLEGE'S
ATHLETIC DEPARTMENT CASH RECEIPTS AND
DISBURSEMENTS TO/FROM BLUEFIELD STATE COLLEGE
FOUNDATION ACCOUNT**

FOR THE PERIOD

JULY 1, 2005 – JUNE 30, 2007



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Joint Committee on Government and Finance

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The Joint Committee on Government and Finance:

The objective of this special report was to evaluate the Bluefield State College's (BSC) Athletic Department's internal controls and procedures over receipts and disbursements to/from the BSC Foundation account. An additional objective was to determine if these internal controls were consistent with the directives conveyed in the West Virginia Code, Legislatively approved rules and regulations, as well as, other rules, regulations, policies and procedures.

In order to achieve the objectives noted above, we performed the following on the Athletic Department at the College:

- a. Reviewed applicable sections of the West Virginia Code, Legislative Rules, as well as other rules and regulations, policies and procedures as they pertain to the Athletic Department cash collections and expenditures;
- b. Conducted interviews with various BSC and BSC Foundation personnel to determine how Athletic Department revenues and expenditures to/from the BSC Foundation account were processed;
- c. Reviewed reports and copies of checks provided to us by BSC Foundation personnel to support transactions to/from the BSC Foundation Big Blue Fund for the period of July 1, 2005 through June 30, 2007 and supporting receipts;
- d. Evaluated the adequacy of internal controls over BSC's Athletic Department revenue and expenditure processing procedures by determining, among other things, the ability of employees to override the system of internal controls, and if there was adequate management oversight over the Athletic Department cash collections and expenditures.

Our audit period is July 1, 2005 through June 30, 2007. We conducted our audit in accordance with auditing standards generally accepted in the United States. Our audit disclosed certain findings which are detailed in this report. The Spending Unit's management has responded to the audit findings; we have included the responses following each finding.

Respectfully submitted,

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

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EXECUTIVE SUMMARY

Finding 1 Foundation Athletic Account Deposits (Includes Finding 1A and 1B)

- The Foundation was unable to provide us with source documentation to support four of ten deposits requested, totaling \$16,234.50, for our review. We determined two of the six foundation deposits reviewed, totaling \$2,848.32, were BSC moneys which should have been deposited into BSC accounts. Also, during our field work, we became aware that the BSC baseball coach violated the West Virginia Governmental Ethics Act by “encouraging” each baseball player to pay \$500.00 towards the annual “spring break trip” travel expenditures.

Auditor’s Recommendation

In accordance with State statute, all moneys collected for athletic contests should be deposited into BSC’s Auxiliary and Auxiliary Capital Fees Fund. Also, we recommend BSC comply with Chapter 18B, Article 18, Section 4 of the West Virginia Code, as amended, and the legal opinion of the West Virginia Ethics Commission and discontinue the practice of either encouraging or requiring baseball student-athletes to raise or contribute funding to finance the baseball team’s spring break trip. (See Pages 12-17).

Spending Unit’s Response

The College concurs and will comply with our recommendation.

Finding 2 Foundation Athletic Account Expenditures

- There was no procedure in place to ensure that BSC Athletic Department travel expenditures paid from BSC State funds were not also paid from the Foundation athletic account. We reviewed supporting documentation for 60 disbursements from the Big Blue Fund during the period of July 1, 2005 through June 30, 2007 and noted: (1) Four disbursements, totaling \$1,280.00, issued to the former Softball Coach may have been used for other purposes, including personal gain; and (2) Fifty-two disbursements totaling \$48,964.98 lacked receipts to support whether moneys were used for authorized State expenditures. We noted \$41,011.00 of this amount was issued directly to a Coach or the Athletic Director.

Auditor's Recommendation

- We recommend BSC and the Foundation enhance their internal controls over moneys disbursed for BSC athletic team travel—particularly those moneys issued directly to athletic department employees. By following a similar practice of West Virginia University, the Foundation could require invoices be approved by BSC's Vice President for Financial and Administrative Affairs before being considered for payment from either BSC or Foundation accounts. Implementing such internal controls would decrease the risk of duplicate payments of expenditures and decrease the risk of misuse of BSC and Foundation moneys. Also, we recommend BSC keep documentation to support purchases are for authorized State expenditures in accordance with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code.

Further, we recommend the West Virginia Higher Education Policy Commission (WVHEPC) ensure all State Colleges and Universities have internal controls in place to prevent expenditures being paid from both State and Foundation accounts. (See Pages 17-19).

Spending Unit's Response

The College concurs and will comply with our recommendations.

Finding 3 Misstatement of Financial Statements

- During our audit period BSC Management was unaware of the Athletic Department depositing BSC moneys into Foundation accounts. As a result, deposits to the Foundation's Big Blue Fund that should have been deposited into BSC accounts and the subsequent expenditures of these revenues were not reported on BSC's annual financial statements. As a result, at a minimum, the fiscal year (FY) 2006 and 2007 financial statements were misstated. Due to lack of supporting documentation, we were unable to determine the dollar amount of the misstatement of the financial statements and whether or not the omission of these funds from the financial statement would be considered material.

Auditor's Recommendation

We recommend BSC obtain the assistance of the BSC Foundation and determine the amount of BSC moneys inappropriately deposited into the Foundation Big Blue Fund. We also recommend BSC determine the purpose for those Foundation disbursements made with Athletic Department moneys from the Foundation's Big Blue Fund. In addition, BSC should inform financial auditors of the misstatement of financial statements and take the appropriate corrective action to ensure previously issued and current financial statements are properly stated to protect the financial rights of the state and persons directly affected by the agency's activities, as required by Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code.

Further, we recommend BSC seek reimbursement of any unexpended funds that should have been deposited to BSC accounts from the Foundation. Again, the collections made by the BSC Athletic Department are required by State statute to be deposited into BSC's Auxiliary Fund (4372). (See Pages 19 - 21).

Spending Unit's Response

The College concurs and will comply with our recommendations.

Finding 4 BSC and Foundation Not Viewed as Separate Entities

- During our field work, it became apparent that some of the financial activities of BSC and the BSC Foundation were inappropriately connected and, in some cases, difficult to differentiate, as follows: (1) BSC moneys were deposited in Foundation accounts in noncompliance with State statute; (2) Seven of eight individuals with signature authority over the various Foundation accounts are BSC employees and most have signature authority over accounts that hold moneys from which they request disbursements; (3) The BSC Director of Advancement and Planning (Foundation Executive Director) solicits donations on behalf of BSC and the Foundation; and (4) The Big Blue Fund deposit ticket reflects Bluefield State College's name, address and telephone number and the Athletic Director's name.

Auditor's Recommendation

We believe BSC and the Foundation should operate as separate entities with clearly defined and disconnected missions and financial accounts to protect the financial rights of the state and persons directly affected by the agency's activities, as required by Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code. (See Pages 21 and 22).

Spending Unit's Response

The College concurs and will comply with our recommendations.

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INTRODUCTION

POST AUDIT AUTHORITY

This is the special report on the BSC Athletic Department cash receipts and disbursements to/from BSC Foundation account. The audit was conducted pursuant to Chapter 4, Article 2 of the West Virginia Code, which requires the Legislative Auditor to “make post audits of the revenues and expenditures of the spending units of the state government, at least once every two years, if practicable, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization and functions of the state and its spending units.”

BACKGROUND

Bluefield State College was established as a black teachers college by an Act of the West Virginia Legislature in 1895 and was integrated after 1954. By the 1960's, the College had a comprehensive four year program of teacher education, arts and sciences, and engineering technology. Gradually a variety of two-year technical programs evolved in response to local needs.

In 1975, the Board of Regents transferred administrative control of Greenbrier Center of West Virginia University to Bluefield State College. Also in 1975, the Regents gave approval for Bluefield State College to offer courses, both upper and lower divisions, in Beckley, West Virginia in cooperation with Beckley College, a private two-year institution. In 2003, the Board of Regents transferred administrative control of the Summersville Center of Glenville State College to Bluefield State College. Also, upon the passing of Senate Bill 448, the New River Community and Technical College (NRCTC) under Bluefield State College was independently accredited in July 2005; however, the NRCTC remains administratively linked to Bluefield State College.

Bluefield State College has emerged as a four-year state supported commuter college serving southeastern West Virginia. The College offers baccalaureate and associate degrees. Instructional programs are offered in engineering technologies, business, teacher education, arts and sciences, nursing and health science professions, and a variety of career fields. Students may

also complete the non-traditional Regents Bachelor of Arts degree through Bluefield State College. The College works closely with area two-year colleges in developing two-plus-two degree opportunities for selected baccalaureate level programs whereby the two years completed for an associate degree are applicable toward the baccalaureate degree. Bluefield State College offers a wide variety of courses off campus and through distance learning.

An organization chart or listing of personnel of the spending unit is on the following page.

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JUNE 30, 2007

Administration

Dr. Albert L. Walker, Ed.D.....President
Donald Smith, Ed.D..... Vice President for Academic Affairs
John C. Cardwell, M.A. Vice President for Student Affairs
Shelia Johnson, B.S. Vice President for Financial and Administrative Affairs
James A. Nelson, B.S.....Assistant to the President/Director of Institutional and Media Relations
Felica Wooten Blanks, Ph.D...Executive Director of Institutional Development and Advancement
Tracey Anderson, Ed.D..... Director of Institutional Research and Assessment
Thomas E. Blevins, Ed.D..... Dean of Technology and Virtual College
Karen Harvey.....Director of Advancement and Planning
Terry Brown.....Athletic Department Director

AUDIT SCOPE

We have audited the BSC Athletic Department cash receipts and disbursements to/from the BSC Foundation's Account for the period of July 1, 2005 through June 30, 2007. Our audit scope included a review of internal control and compliance with laws and regulations. The audit was conducted in accordance with auditing standards generally accepted in the United States.

OBJECTIVES and METHODOLOGIES

The objectives of our special report were to audit the revenues and expenditures of moneys collected by the BSC Athletic Department and deposited into the BSC Foundation's Athletic Account, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, that we find, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization and functions of the state and its spending units. We were to determine whether expenditure and revenue transactions to/from the BSC Foundation Athletic Account were related to the spending unit's programs, were reasonable, and were recorded properly in the accounting systems. Additionally, we were to examine the spending unit's records and internal control over Athletic Department transactions, and to evaluate its compliance with applicable State laws, rules and regulations.

In preparation for our testing, we studied legislation, applicable WV Code sections, applicable rules and regulations, and policies of the spending unit. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Additionally, we interviewed spending unit personnel to obtain an understanding of the programs and the internal controls.

A nonstatistical sampling approach was used. Our samples of transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Transactions were selected for testing using professional judgment.

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, management of the spending unit and others within the spending unit. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

Bluefield State College's written response to the significant deficiencies identified in our audit has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

The Bluefield State College's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Post Audit Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

CONCLUSIONS

BSC management failed to maintain fundamental institutional control over those Athletic Department receipts deposited into Foundation accounts. Specifically, during our audit period the BSC Athletic Department deposited moneys belonging to BSC into the Foundation Big Blue Fund without the knowledge of BSC management. Our audit scope was limited with respect to the amount of BSC moneys inappropriately deposited to Foundation accounts and whether the expenditures of these moneys were properly issued in accordance with State statute and other governing rules because of the lack of documentation supporting these deposits and expenditures to the Foundation accounts. Additionally, we noted certain internal control weaknesses and matters of compliance relating to the spending unit's deposits and expenditures which merit management's attention.

This report includes findings which describe significant deficiencies in the design or operation of internal controls that could adversely affect the spending unit's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules or regulations.

EXIT CONFERENCE

We discussed this report with management of the spending unit on January 29, 2009. All findings and recommendations were reviewed and discussed. Management's response has been included at the end of each finding.

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FUND LISTING

We have completed a special report on the internal controls over Bluefield State College's (BSC) Athletic Department cash receipts and disbursements to/from the BSC Foundation account. The examination covers the period July 1, 2005 through June 30, 2007.

SPECIAL REVENUE ACCOUNTS

The following account was maintained by the Bluefield State College for the deposit of auxiliary revenues, including, but not limited to, bookstore, athletics, faculty housing and student center revenues:

<u>Fund Number</u>	<u>Description</u>
4372-Auxiliary and Auxiliary Capital Fees Fund	Tuition, fees and investment income to fund auxiliary capital fees.

BLUEFIELD STATE COLLEGE FOUNDATION ATHLETIC ACCOUNT

During our audit, we became aware the BSC Athletic Department was depositing moneys into the following BSC Foundation account:

<u>Fund</u>	<u>Description</u>
Big Blue Fund	Revenues received by the Bluefield State College Athletic Department from donations, fundraisers, etc.

SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROL AND REPORTABLE COMPLIANCE AND OTHER MATTERS FINDINGS

In planning and performing our audit of Bluefield State College Athletic Department Cash Receipts and Disbursements to/from the BSC Foundation Account, in accordance with accounting standards generally accepted in the United States, we considered the Spending Unit's internal control over financial reporting (internal control) as a basis for designing our auditing procedures, but not for the purpose of expressing an opinion on the effectiveness of the Spending Unit's internal control. Accordingly, we do not express an opinion on the effectiveness of the Office's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiencies to be significant deficiencies in internal control in all findings.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control. We believe some of Finding 1 contained a deficiency that constituted a material weakness, as follows:

- BSC management failed to maintain fundamental institutional control over those Athletic Department receipts deposited into Foundation accounts. During our audit period, the BSC Athletic Department deposited moneys belonging to BSC to the Foundation Big Blue Fund without the knowledge of BSC management. These revenues and the subsequent expenditure of these revenues were not reported on BSC's financial statements. We were unable to determine the dollar amount of the misstatement of the financial statements.

COMPLIANCE MATTERS

The BSC Foundation (the Foundation) is a private (non-State) corporation that receives, administers and distributes donated funds and properties to further the purposes of BSC. The Foundation provides scholarships and loans for BSC students, as well as funds for the development of faculty and staff.

Generally, university or college foundations exist for the purpose of securing and administering private resources in support of academic programs, student scholarships, faculty development and public service initiatives. Since a typical foundation's funding is obtained from non-state sources, the Post Audit Division has neither the statutory authority nor any legitimate financial interest in auditing a foundation's receipts, deposits and disbursements. However, as stated in the Special Report of Bluefield State College Athletic Department Receipts and Disbursements for the period of July 1, 2005 through June 30, 2007 (the special report), some BSC Athletic Department cash collections for (1) Tickets sold at basketball games; (2) Tournament guarantees from host teams; and (3) Receipts from concession sales were given to the BSC Foundation and purportedly deposited into their accounts.

The collections made by the BSC Athletic Department are required by State statute to be deposited into BSC's Auxiliary and Auxiliary Capital Fees Fund {Auxiliary Fund (4372)}. Although we became aware BSC violated the State statute by depositing some collections into the BSC Foundation account during our two-year audit period, the incomplete and inadequate records of the BSC's Athletic Department prevented us from determining how much BSC moneys were deposited into the Foundation account. Also, the Department was unable to account for how the Department's moneys were used by the Foundation.

In an effort to determine the amount of Athletic Department moneys deposited into the Foundation account and the deposition of these moneys, we requested the Foundation provide us a report, a financial statement, or an itemized ledger which disclosed for our two-year audit period all Athletic Department moneys received, the current balance of these moneys held in the Foundation's account, and an itemized accounting of those Athletic Department Moneys expended from the Foundation account. A Foundation representative informed us this information was not available; however, the representative of the Foundation did provide us with several reports indicating the deposits into the Foundation's Big Blue Fund and copies of checks issued from the Big Blue Fund.

We used the available financial documentation received from the Foundation and from BSC to test BSC's compliance with applicable sections of the West Virginia Code, and BSC's legislatively approved rules and regulations, as well as other rules, regulations, policies and procedures, as they pertain to the Athletic Department's deposits and expenditures to/from the BSC Foundation account. Our findings are discussed below:

Finding 1 Foundation Athletic Account Deposits

The Foundation uses a variety of accounts to segregate moneys designated for specific purposes. The Foundation’s “Big Blue Fund” is used to pay for Student Athletic Scholarships and other costs incurred by the BSC Athletic Department. During our audit period of July 1, 2005 through June 30, 2007, deposits into the Foundation’s Big Blue Fund totaled \$136,245.46. As shown on the Foundation’s *Profit & Loss* Statement, the Big Blue account has various sub-accounts. These sub-accounts further designate those specific types of BSC athletic department costs for which the moneys are intended to cover. The schedule below is a recreation of the Big Blue Fund section of the Foundation’s Profit & Loss statement for the two-year period of July 1, 2005 through June 30, 2007:

Description (BB is used as an abbreviation for “Big Blue”)	Income (July 1 2005 – June 30, 2007)
BB-Scholarship Fund	\$ 57,940.00
BB-Special Fund	2,000.00
BB-Women’s Basketball	2,960.00
Women’s Basketball – Food	945.00
Big Blue Men’s Basketball	4,250.00
Men’s Basketball – Food	645.00
BB – Interest Income	515.87
BB – Women’s Softball	19,255.30
Big Blue Golf Donations	3,451.75
Intercollegiate Athletic Income	3,337.52
BB-Baseball Travel Fund	35,376.02
Big Blue Cheerleading Income	3,639.00
Big Blue Camp Income	<u>1,930.00</u>
BIG BLUE FUND TOTAL	<u>\$136,245.46</u>

It is our understanding the majority of funding for the Big Blue Scholarship Fund sub-account is received from corporate and private donations; however, we have observed BSC documents indicating that some basketball tournament revenues received by BSC were deposited into the Big Blue Fund for athletic scholarships. The funding for other Big Blue sub-accounts is provided by fundraisers and, as stated above, ticket sales and other Athletic Department income. Moneys received by the BSC Athletic Department for tournament guarantees, tickets and concession sales and other athletic department income should have been deposited into BSC accounts in accordance with State statute. BSC failed to maintain fundamental institutional control over those Athletic Department receipts deposited into Foundation accounts.

After reviewing the Foundation accounting records, we concluded the records are not sufficiently detailed in order for us to determine the funding sources for much of the \$136,245.46 deposited into the Big Blue Fund during our two-year audit period. Therefore, in order for us to determine if there were other BSC moneys improperly deposited into Foundation accounts, it became necessary to review the available source documents supporting deposits into

the Big Blue Fund. Using professional judgment, we requested documentation to support ten deposits, totaling \$36,236.62 (27% of amount deposited), for our review.

Spending Unit's Response

The Foundation Athletic Account has been closed, in 2007, and change in the management has occurred for these funds as stated above. Bluefield State College administration was unaware of the deposits being made to the Foundation accounts and Foundation officials were unaware some of these deposits were required to be deposited at the College. Procedures are now in place to deposit the funds with the correct entity and Athletic personnel have also been informed.

Finding 1A BSC Moneys Deposited to Foundation Athletic Account

Of the deposits requested, the Foundation was unable to provide us with source documentation to support four deposits (40% of documentation requested), totaling \$16,234.50. These are detailed in the following schedule:

Payor	Date	Amount
First Community Bank	06/01/2006	\$15,000.00
Big Creek High School	04/28/2006	569.50
State of West Virginia	08/04/2006	550.00
State of West Virginia	08/28/2006	115.00
Total		<u>\$16,234.50</u>

Without supporting documentation, we were unable to determine whether or not the deposits were State moneys that should have been deposited into BSC accounts.

We noted two foundation deposits totaling \$2,848.32 were BSC's money which should have been deposited into BSC accounts. These deposits represented 20% of the number Big Blue deposits for our sample (10) and approximately 8% of the dollar amount of the Big Blue Deposits in our sample (\$36,236.62). These two deposits are detailed in the following schedule:

Payor	Deposit Date	Amount
West Virginia Intercollegiate Athletic Conference (WVIAC)	06/28/2006	\$1,577.82
Bluefield High School (BHS)	04/28/2006	\$1,270.50
Total		<u>\$2,848.32</u>

Although the \$1,577.82 check from the WVIAC was made payable to BSC, it was deposited into the Foundation's Big Blue Fund. According to the WVIAC, the check was for the distribution of strategic initiative grant moneys awarded to BSC from the NCAA. The \$1,270.50 check from Bluefield High School (BHS) was for reimbursement of game workers payroll and clean-up expenses for BHS basketball games played onsite at BSC—even though the payroll and

other expenses incurred by BSC for high school games were paid from BSC's Auxiliary Fund (4372). In accordance with State statute, all moneys collected for athletic contests should be deposited into BSC's Auxiliary Fund (4372).

Chapter 18B, Article 10, Section 11 of the West Virginia Code, as amended, states:

“The governing board of a state institution of higher education may fix and charge admission fee to athletic contests...The governing board may enter into contracts and spend and receive money under such contracts for the student athletic teams of the institutions to contest with other athletic teams...**All money received from such fees and contracts shall be deposited in the auxiliary operating account. . . .**” (Emphasis Added).

As stated earlier, only six deposits in our sample of ten were supported by sufficient documentation necessary to determine the source of the funds. As a result, there may be other Foundation deposits not included in our sample that (1) were not properly supported and/or (2) should have been deposited into BSC accounts.

Spending's Units Response

Source and intent of revenue funds will be verified prior to depositing to the Foundation Athletic account.

Finding 1B Baseball Athletic Team Deposits to Foundation Athletic Account

During our audit period the BSC baseball coach collected approximately \$500.00 from each of the approximately 40 baseball players each baseball season. The coach informed us the moneys collected were deposited into the Foundation's Big Blue Fund—which is used by the Foundation to account for BSC athletic funding. Deposits into the Foundation's Big Blue Fund by the baseball team totaled \$35,376.02 during our audit period. A sub-account titled the Baseball Travel Fund was used to set aside these moneys from other athletic moneys deposited in the Big Blue Fund.

The baseball coach told us the moneys were raised through fundraising performed by the baseball players; however, some students opted to “gift” the \$500.00 in lieu of the student participating in fundraising. The Baseball Coach was unable to provide us with documentation to support the amount of fundraising moneys and personal moneys collected from the baseball players. Consequently, we were unable to determine if all moneys raised and collected from the baseball players were deposited into the Big Blue Fund.

After our inquiries on the matter, the Baseball Coach provided us with a memorandum dated September 22, 2008, which stated in part,

“...During this period, student-athletes participating on the baseball team **were encouraged**, but not required, to raise funds to support these accounts. Since the 2005-2006 academic year, annual fund raising goals have varied from \$450 to \$550 per participant. No student-athletes were dismissed from the team because they failed to reach their individual fund raising goal.....”
(Emphasis Added).

A former baseball player (of four years) told us through an e-mail communication that if a baseball player did not raise the required amount, the Baseball Coach still permitted the players to participate in the regular baseball games; however, the players were not permitted to attend the annual “spring break trip”. His statement contradicted the baseball coach’s claim that he did not prohibit a student-athlete from participating in the spring break baseball games if the student-athlete failed to raise or contribute the moneys for the trip. During the “spring break trip” the baseball team traveled and played various tournament games.

The former Foundation Fiscal Manager told us that Foundation’s records indicated that all contributions to the Foundation for the “spring break trip” were made by student-athletes who either raised the moneys by participating in fundraising activities or provided the moneys from their own personal funds. Even though baseball student athletes “were encouraged” by the baseball coach to raise or donate approximately \$500.00 each year to cover the cost of the annual “spring break trip,” the Foundation’s records showed no contributions through either fundraising or by personal contributions were provided by the baseball coach and other BSC staff who traveled with the students on the “spring-break trip.”

BSC travel expense forms used for reimbursement of expenses incurred by the baseball coach for the fiscal year 2006 “spring break trip” showed that BSC reimbursed travel expenses from its Auxiliary Fund (4372) for the baseball coach, one trainer, one assistant coach and one volunteer assistant coach. BSC did not have records that documented the BSC personnel that attended the fiscal year 2007 “spring break trip.”

In addition to the moneys from BSC accounts, the Foundation disbursed directly to the baseball coach \$31,771.00 from Big Blue Baseball Travel Fund during our two-year audit period. According to the baseball coach these moneys were used to cover expenses incurred on the spring break trips that were not reimbursed from BSC accounts. However, neither the baseball coach nor the Foundation was able to provide us with documentation to support those travel expenses paid with the moneys. As stated earlier, the source of the funds deposited into the Big Blue Baseball Travel Fund were provided by the Student Athletes.

Although Chapter 18B, Article 18, Section 4 of the West Virginia Code authorizes higher education institutions to receive gifts or bequests, the Code **does not grant** these institutions the authority to **require gifts** be made by individuals or students. Chapter 18B, Article 18, Section 4 of the West Virginia Code, states in part:

- (a) “Each board of governors is hereby expressly authorized to receive private or public grants, gifts or bequests restricted by the donor to the programs set out in this article....”

The BSC Vice President for Financial and Administrative Affairs and the Director of Advancement and Planning (also the Foundation Executive Director from February 2007 to present) told us they were unaware the Baseball Coach collected these moneys from the baseball players until approximately February of 2007. The Director of Advancement and Planning became aware of collection of these moneys by the Baseball Coach when a student quit the baseball team prior to the “spring break trip” and requested BSC refund his personal moneys he had previously submitted to cover the trip. The Director of Advancement and Planning made the decision to refund the former baseball player’s contribution from his personal moneys. We noted an e-mail supporting this expenditure, which stated in part,

“...There is some question as to whether the \$500 required from each member of the baseball team is a gift or a fee—we are on thin ice here. Since the funds are currently deposited in the Foundation and acknowledged as gifts, that is how we will treat them. **But because they are a requirement of team membership, they technically are not gifts freely given.** I have discussed this with Dr. Walker and the Cabinet, and it will be under review....” (Emphasis Added).

According to the Legal Counsel of the West Virginia Ethics Commission, a State Employee who benefits from donations for which he or she solicits violates the West Virginia Governmental Ethics Act. Chapter 6B, Article 2, Section 5 Subsection (c), of the West Virginia Code as amended, (The West Virginia Governmental Ethics Act) states in part:

“...(1) A public official or **public employee may not solicit any gift unless the solicitation is for charitable purposes** with no resulting direct pecuniary benefit conferred upon the official or employee...” (Emphasis Added)

The Legal Counsel of the West Virginia Ethics Commission provided us with an opinion through an e-mail communication, which states in part,

“...The Ethics Act states that a public employee shall not solicit a gift from a subordinate....The players are not subordinates as there is no employer/employee relationship. Still, due to the control of the coaches over the players, to comply with the spirit and intent of the Ethics Act, in our opinion **the coaches should not solicit gifts from the players....**” (Emphasis Added).

Through discussions with BSC Athletic Department personnel, we learned the Foundation is no longer receiving these “gifts” from baseball players. As of late, it is our

understanding these “gifts” have been processed through the BSC Research and Development Corporation—even though the BSC Athletic Director informed the Baseball Coach by a memorandum dated October 25, 2007 that he would not authorize the deposit of these moneys into the Research and Development Corporation’s accounts.

We recommend BSC comply with Chapter 18B, Article 18, Section 4 of the West Virginia Code and the legal opinion of the West Virginia Ethics Commission and discontinue the practice of either encouraging or requiring baseball student-athletes to raise or contribute funding to finance the baseball team’s spring break trip.

Spending Unit’s Response

As indicated in the report, Bluefield State College officials were unaware of the baseball program collecting these funds, as a fee requirement or gift. The Foundation also, as stated by the Executive Director, is no longer involved in this process. The College will work with the Athletic Department, specifically the Athletic Director and Baseball Coach and the BSC Research and Development Corporation, to resolve this issue of raising or contributing funds for the spring break trip.

Finding 2 Foundation Athletic Account Expenditures

As stated earlier in this report, during our audit period BSC athletic teams collected fundraising moneys and received gifts which were deposited into various sub-accounts of the Foundation’s Big Blue Fund. According to representatives of the Foundation, these moneys were requested by various BSC athletic coaches on an as needed basis to cover travel and food expenses. In addition, athletic scholarships were awarded to BSC student athletes from moneys donated for this specified purpose. The Foundation kept separate accounting of each type of money deposited and expended through the use of sub-accounts. During our audit period of July 1, 2005 through June 30, 2007, expenditures from the Big Blue Fund totaled \$104,189.43.

Although athletic event travel costs are regularly paid from BSC’s Auxiliary Fund, it came to our attention that some athletic travel expenditures were paid from Foundation’s Big Blue Fund. However, the funds used from the Big Blue Fund were State receipts that had been improperly deposited into the Foundation account—as was described in the previous finding.

We were told there was no procedure in place to ensure that the same BSC Athletic Department travel expenditures paid from BSC State funds were not also paid from the Foundation’s Big Blue Fund. A memorandum from the Executive Director of the Foundation, dated September 11, 2008, stated in part,

“...We do not have a specific procedure in place to ensure that BSC Athletic Department travel expenses paid from BSC State accounts are not also paid from BSC Foundation accounts...We

have no way of knowing whether the BSC State accounts pay additional expenses, as requests to those accounts are not shared with the Foundation....” (Emphasis Added).

We reviewed supporting documentation for 60 disbursements, totaling \$52,163.55 (50% of the amount of disbursements), from the Big Blue Fund during the period of July 1, 2005 through June 30, 2007. We noted there were no receipts supporting 52 of the 60 disbursements in our sample (87%). These 52 disbursements totaled \$48,964.98, of which \$41,011.00 of this amount was issued either directly to a BSC Coach or the BSC Athletic Director, as noted in the following schedule:

Payee	Amount
Baseball Coach	\$31,771.00
Former Softball Coach	3,700.00
Athletic Director	2,640.00
Women’s Basketball Coach	1,795.00
Men’s Basketball Coach	<u>1,105.00</u>
TOTAL	<u>\$41,011.00</u>

Although, as stated above, there was no supporting documentation such as receipts for any of the 52 disbursements, we did note some notations made on the check stubs for four of the disbursements totaling \$1,280.00 issued to the former Softball Coach. These notations seem to indicate the moneys may have been used for purposes other than legitimate athletic event travel—not excluding the possible personal gain of the former Coach. These four disbursements are detailed below:

- The check stub supporting a \$400.00 disbursement from the Big Blue Fund to the former Softball Coach reflected “Food for game on 04/12/2006”. However, meal expenses totaling \$342.00 for this same game were purported to have been paid from State cash advance moneys.
- The check stub supporting a \$240.00 disbursement from the Big Blue Fund to the former Softball Coach reflected “Softball Officials – Game on 04/15/06”. However, we noted documentation indicating the game officials were paid \$240.00 from State cash advance moneys for this softball game.
- The check stub supporting a \$240.00 disbursement from the Big Blue Fund to the former Softball Coach reflected “Softball Officials – Game on 04/18/06”. However, we noted the game schedule did not indicate a game on this date and we noted no expenditures paid from BSC funds for any athletic event costs on this date.
- The check stub supporting a \$400.00 disbursement from the Big Blue Fund to the former Softball Coach reflected “Food for Game at Fairmont on 04/21/2006”. However, we

noted the game schedule did not indicate a game on this date and we noted no athletic event expenditures paid from BSC funds for this date.

Without documentation, such as receipts, we were unable to determine: (1) Whether moneys were used for authorized State expenditures; (2) If any instances of “double dipping” may have occurred where moneys for the same expenses were obtained from both BSC and the Foundation accounts; and (3) If the moneys may have been used for other purposes, including personal gain.

Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code, states in part,

“...Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to **furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities....**” (Emphasis Added).

We recommend BSC and the Foundation enhance their internal controls over moneys disbursed for BSC athletic team travel—particularly those moneys issued directly to athletic department employees. By following a similar practice of West Virginia University, the Foundation could require invoices be approved by BSC’s Vice President for Financial and Administrative Affairs before being considered for payment from either BSC or Foundation accounts. Implementing such internal controls would decrease the risk of duplicate payments of expenditures and decrease the risk of misuse of BSC and Foundation moneys. Also, we recommend BSC keep documentation to support purchases are for authorized State expenditures in accordance with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code.

Further, we recommend the West Virginia Higher Education Policy Commission (WVHEPC) ensure all State Colleges and Universities have internal controls in place to prevent expenditures being paid from both State and Foundation accounts.

Spending Unit’s Response

Procedures are now in place, prior to disbursement, for verification by the Foundation that the College has not paid for the same item requested by the Foundation.

Finding 3 Misstatement of Financial Statements

As previously stated, during our audit period BSC Management was unaware of the Athletic Department depositing BSC moneys into the Foundation account. As a result, deposits to the Foundation's Big Blue Fund that should have been deposited into BSC accounts and the subsequent expenditures of these revenues were not reported on BSC’s annual financial statements. As a result, at a minimum, the fiscal year (FY) 2006 and 2007 financial statements

were misstated. Due to lack of supporting documentation, we were unable to determine the dollar amount of the misstatement of the financial statements and whether or not the omission of these funds from the financial statement would be considered material.

Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code, states in part,

“...Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to **furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities...**” (Emphasis Added).

The possibility exists that all deposits to the Foundation’s Big Blue Fund belonged to BSC; however, due to lack of supporting documentation, we were unable to determine the actual amount of moneys deposited into the Foundation’s Big Blue Fund that should have been deposited into BSC accounts. The following table summarizes the deposits and expenditures from the Big Blue Fund during our audit period of July 1, 2005 through June 30, 2007.

Foundation’s Big Blue Fund	
<u>July 1, 2005 – June 30, 2007</u>	
Revenues	\$136,245.46
Expenses	<u>\$104,189.43</u>
Revenues Over Expenses	<u>\$ 32,056.03</u>

The above table represents the maximum possible dollar amount misstated on the BSC financial statements during our period of audit.

We recommend BSC obtain the assistance of the BSC Foundation and determine the amount of BSC moneys inappropriately deposited into the Foundation Big Blue Fund. We also recommend BSC determine the purpose for those Foundation disbursements made with Athletic Department moneys from the Foundation’s Big Blue Fund. In addition, BSC should inform financial auditors of the misstatement of financial statements and take the appropriate corrective action to ensure previously issued and current financial statements are properly stated to protect the financial rights of the state and persons directly affected by the agency’s activities, as required by Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code. Further, we recommend BSC seek reimbursement of any unexpended funds that should have been deposited to BSC accounts from the Foundation. Again, the collections made by the BSC Athletic Department are required by State statute to be deposited into BSC’s Auxiliary Fund (4372).

Spending Unit’s Response

BSC and the Foundation will inform their financial auditors of this issue; however, these funds have been expended, per Athletic Department requests, by the

Foundation and are no longer available. Also, due to insufficient documentation, accurate data is not available to determine which entity (either BSC or Foundation) was due the funds.

Collections are being made currently to the BSC state athletic account as required.

Finding 4 BSC and Foundation Not Viewed as Separate Entities

During our field work, it became apparent the Foundation and BSC are not being operated as separate entities. Rather, we noted the entities are operating in one capacity, as follows:

- As previously stated, BSC moneys were deposited in Foundation accounts in noncompliance with State statute.
- Seven of eight individuals with signature authority over the various Foundation accounts are BSC employees. Most of these BSC employees have signature authority over accounts that hold moneys from which they request disbursements. Specifically, the Athletic Director has signature authority for the Big Blue Fund. We noted 54 of the 60 reviewed Foundation checks, or 90%, were signed by the BSC Athletic Director and four of these checks were issued to him. Although, two signatures are now required on Foundation checks, the fact that Foundation checks are signed by employees requesting the funds is a significant lack of internal controls. We believe the Foundation Executive Director should have signature authority over all Foundation accounts.

To determine if the situation discussed above is common practice at other West Virginia institutions, at our request, the West Virginia Higher Education Policy Commission (WVHEPC) asked 11 four-year State Colleges and Universities (not including BSC) if its employees have signature authority over its Foundation accounts. Eight institutions replied and, in most instances, no College employees or, at most, one College employee acting in the capacity of Foundation Executive Director had signature authority. Thus, we concluded it is not common practice for College employees to have signature authority over the College's Foundation accounts.

- We noted the BSC Director of Advancement and Planning (Foundation Executive Director) solicits donations on behalf of BSC and the Foundation. We noted on BSC's internet web site, the Advancement and Planning office represents BSC; however, the donations are asked to be made payable to the Foundation. We believe that the same person should not be responsible for soliciting donations on behalf of BSC and the Foundation because doing so makes it difficult to determine to whom the donations belong.
- The Big Blue Fund deposit ticket reflects "Bluefield State College, "Big Blues," Athletic Department, % ...(Athletic Director's name)..., 219 Rock St. Ph. 304-327-4191, Bluefield, WV 24701." The Foundation's use of the school name and the BSC Athletic Director's name on the deposit tickets give *apparent authority* to BSC. Meaning, the

bank account could be perceived by the bank or outside entities as belonging to BSC and BSC moneys could be deposited to the account without any question being raised by the bank. We believe the Big Blue Fund should not be associated with the name of BSC, the BSC Athletic Department, or the Athletic Director. Rather, we believe the Big Blue Fund should be in the name of the Foundation.

Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code, states in part,

“...Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to **furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities....**” (Emphasis Added).

We believe BSC and Foundation funds and their employee duties are intermingled and; as a consequence, they could appear as one entity to outside parties. We believe BSC and the Foundation should operate as separate entities with clearly defined and disconnected missions and financial accounts to protect the financial rights of the state and persons directly affected by the agency’s activities, as required by Chapter 5A, Article 8, Section 9 (b) of the West Virginia Code.

Spending Unit’s Response

BSC and Foundation members have always considered these entities to be separate and they are separate entities. As stated above, the employees on the Foundation are ex-officio members and make up approximately 14% of the membership of the Foundation. Signature authority by BSC employees is currently being changed by the Foundation to be the Executive Director of the Foundation and the Executive Committee of the Foundation. Previous authorized signatures by BSC employees were an alternate in the absence of the Executive Director. Signature authority for the Athletic Director will also be removed. Most donations are made to the Foundation and the Executive Director of the Foundation requests payment to the Foundation; however, on occasion, the donor may make the check payable to the College or send funds directly to the College. The Big Blue Fund named in the finding that was named Bluefield State College, Athletic Department has been closed; therefore, this issue has been resolved. The Foundation and BSC are separate entities and will continue to operate as separate entities.

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 9th day of February 2009.



Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the West Virginia Higher Education Policy Commission; Bluefield State College; Governor; Attorney General; State Auditor; and Director of Finance, Director of Administration.