



STATE OF COLORADO

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Colorado Commission on Higher Education

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March 10, 2011

Ms. Barbara Weiske
Executive Vice President for Administration
Auraria Higher Education Center
Campus Box A
P.O. Box 173361
Denver, CO 80217-3361

Dear Executive Vice President Weiske,

Recently, I was briefed on an issue regarding the proposed use of cost savings from the construction of the AHEC Science Building to fund additional power equipment at the Auraria campus. I understand that a request has been made for the approval of a program plan amendment for that purpose. Unfortunately, after careful evaluation of the circumstances related to this, I do not believe that it would be consistent with existing and applicable law or policies regarding the use of Federal Mineral Lease funds to approve a program plan amendment for the abovementioned purpose.

As you know, at the time the FML funds were made available to fund capital projects at institutions of higher education, demand exceeded the supply of FML revenues, so many important projects were left unfunded. At the time, the unsuccessful institutions were told that their projects would be considered in accordance with the availability of funds and the position of the projects in that priority list as established at the time. At present, those projects remain unfunded.

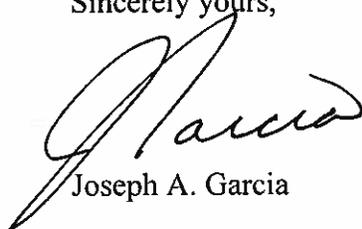
Additionally, approved program plans are required for state capital projects, and amendments to these plans must pertain directly to the project described in the approved plan. For projects that use FML dollars, the department must determine whether a program plan amendment is consistent with the law and policy regarding the use of this source of revenue.

As I understand it, the requested program plan amendment would allow the AHEC institutions to utilize approximately \$2.5 - \$3.0 million in savings from the AHEC Science Building to pay for power equipment that would supply enough power for other projects on the Auraria campus. Though there was some uncertainty around power availability for the Science Building early in the project, I have been advised that, today, the building has an adequate power supply.

It does not appear that the program plan amendment would be for power needed for the Science Building, but instead for other projects on the AHEC campus. This appears to disqualify the amendment. Further, as noted above, both law and basic principles of fairness require that, when additional FML funding becomes available, the policy set out in HJR 08-1042 requires adherence to the approved FML priority list. I believe that approving a use of FML funds that is unrelated to the original project would circumvent the FML priority list and contradict the intent of HJR 08-1042. And, during this time of very scarce state resources, I believe that we must be especially meticulous and prudent when interpreting fiscal rules.

As a former college president, I fully appreciate the need to be constantly industrious and resourceful. And, as the executive director of the Department of Higher Education, I couldn't be more pleased with the success of the AHEC Science Building and your vision for the future of the Auraria campus. Nonetheless, for the reasons stated above, I cannot support the proposed amendment. It is my sincere hope that, soon, the state of Colorado will be in a position to provide funding for your power needs and many additional and worthwhile capital projects.

Sincerely yours,



Joseph A. Garcia

CC: Dr. Stephen Jordan, President, Metropolitan State College of Denver
Mr. Bruce Benson, President, University of Colorado
Dr. Jerry Wartgow, Chancellor, University of Colorado Denver
Dr. Nancy McCallin, President, Colorado Community College System
Dr. Karén Bleeker, President, Community College of Denver