

To Custer County Commissioners and local newspaper Editors,

Some citizens are questioning the actions of our elected officials – from the President to our local officials. While it is our right to speak out and protest, it is disheartening when some encourage chaos and discontent without having all the facts or partially revealing facts to suit a specific agenda. It stirs up discontent using speculation, potentially without a valid cause. I encourage those exposed to such actions to consider the source and their motives and to research the facts before forming conclusions.

The latest local issues relate to the Custer County Board of County Commissioners (BOCC) handling of personnel issues. It makes sense that unless employees involved agree to publicly release specifics, they will not be made public and the BOCC cannot clarify these speculative allegations. The BOCC has an HR department and an attorney advising it. If I was an employee and had done something against policy, made a mistake, etc., I would appreciate being protected from potential public embarrassment. On the other hand, if the BOCC treated me unfairly, there are state and federal laws protecting me.

While I don't know all the reasons the BOCC requested a change in the CSU Extension Agent (CSU EA), I will share what I know as a Custer County 4-H Foundation (CC4HF) Board member (2014-2017) and have discovered through research. Below are some links to the Colorado Secretary of State (CO SoS), CSU Extension (CSUE), and BOCC websites (copy and paste into your browser may be required).

1) The IRS change for non-profits with revenues less than \$25,000 and the subsequent National 4H Foundation change and CSUE change 4 or 5 years ago CSUE's Ms. Glowacki referenced at the BOCC workshop allowed for local groups to decide whether they would fall under the CO4HF or remain a separate entity, applying for 501(c)(3) status, filing IRS Form 990, with a Memorandum of Understanding (MOU) with the Colorado 4HF (CO4HF) to use the 4-H name, emblems, etc. The excerpt below from the CSUE handbook, allows for separately incorporated 4-H Foundations and granting this authority to the county, and if the county so elects, then the level of control is decided at the state level.

<http://www.ext.colostate.edu/staffres/handbook/sec5-glossary.pdf>

"Separately incorporated 501(c)(3) organizations (4-H foundations) using the 4-H name do so with our permission. Any control that Extension has regarding these organizations stems from the use of the 4-H name. The 4-H name is the property of the USDA and its use is controlled by the following chain of responsibility: USDA-NIFA-State Extension Directors-State 4-H Program Leaders-County Extension Directors-County 4-H Agents. No organization may use the 4-H name without permission. **How much control a county 4-H agent or county director wants to wield is a county decision.** How much control is allowed at the county level is a state decision. An issue arises when separate entities using the name of 4-H raise funds. Because Extension has the responsibility to assure that funds raised in the name of 4-H are raised and handled according to the law, **it is necessary to obtain annual financial statements from such entities.**"

This doesn't say the CSUE office or its EA have "control" over these organizations, but need to obtain annual financial statements, likely and rightly to ensure the terms of the MOU are being followed. Since I wasn't a CC4HF Board member in 2012, I asked others who were if they recall being advised of this change and given a choice about the status of the CC4HF going forward. None recall that discussion. In December 2014 the CSU EA asked to add a clause to the CC4HF Bylaws stating that she is in control and can remove any board member for "any reason or no reason at all". The Board requested multiple times that the CSU EA and/or CSUE officials provide documentation that all county 4-H Foundations had this requirement and did NOT approve this bylaw change. Various Board members, including myself, tried to go directly to the CSUE office, leaving messages and emails for Ms. Glowacki with no response. Another request was made in February 2015 and further discussions occurred in August, September, and October of 2016. The outgoing Board advised the incoming Board about these unresolved issues in February 2017. **At no time did the CSU EA or anyone from CSUE provide the information to the CC4HF that was discussed at last week's BOCC Workshop.** If they had, the issues between the CC4HF and the CSU EA would not have occurred, as the members would have been aware before agreeing to serve on the Board. I wouldn't have served, as it seems a moot point to work on a Board with no authority.

2) <http://www.sos.state.co.us/biz/ViewImage.do?fileId=19871187830&masterFileId=19871187830>

Because of this lack of full disclosure, CC4HF Boards have been operating since sometime in 2012 without knowledge and understanding of this change. Charter reporting was assumed to be required for

the use of the 4H name, etc. **The Articles of Incorporation have existed as valid with the CO SoS since 1965** and the attached by inclusion, evolutionary Bylaws on this CO SoS link give full authority for decisions to the CC4HF Board. Article II, #3 states the CC4HF is "NOT subordinate to" the state organization (name was changed to CO4HF). Additionally, the CC4HF filed annual reports with the CO SoS, had its own Federal Tax ID #, and its Registered Agent (RA) was a Board Member until July 2012. <http://www.sos.state.co.us/biz/ViewImage.do?fileId=20121410848&masterFileId=19871187830>

This link is the Change of RA form the CSU EA sent to the CO SoS in July 2012, naming herself as RA, signed by her, stating under penalty of perjury that the Entity (CC4HF) had been notified of this change. Sara Shields was the prior RA. Audrey Gluschke was President at the time. She told me she doesn't recall this being discussed or disclosed. If so, minutes prior to July 2012 would include it.

3) According to CSUE's handbook and Financial and Legal Guidelines, EAs are restricted to having access to banking information, not control – even for those Foundations who fall under the authority of the CO4HF. <http://www.ext.colostate.edu/staffres/handbook/sec9-fiscal.pdf>

"In the conduct of CSU Extension programs, it is desirable and necessary to work with numerous groups and organizations. However, such groups should not be dependent on CSU Extension to be responsible for or handle any of the group funds. **Nor should CSU Extension be responsible for accounting for receipts or expenditures thereof.** Examples of the kind of funds which should not be handled through the authorized local non-appropriated funds are:

- - Sale and/or purchase of 4-H livestock
- - Dairy Herd Improvement Associations
- - General community associations (e.g. breed associations, seed clubs, etc.)
- - Home economic associations and clubs
- - **4-H foundations and councils**

Such groups have their own treasurers. Extension staff should have no authority to withdraw funds from or write checks on any association accounts except as noted below.

Regular County Extension Budget, Weed Districts, and County Fairs may require extension staff to withdraw funds and/or write checks as prescribed by local/area policy."

<http://www.ext.colostate.edu/staffres/handbook/sec5-glossary.pdf>

"**Under no circumstance** should an extension agent/employee be a signer on any account other than a County Non-Appropriated account. This would include 4H club, council, and foundation accounts. Contact either the State 4H office for the CSUE HR Director language for use with banks **to allow agents access to account information.** See also Financial issues."

The wording added to all CC 4-H bank accounts in October 2016 states (grammatical error is theirs):

"CSU Extension and the Extension Agent in Custer County has the authority to request and obtain information, freeze, and designate authorized signatures in regard to this account."

Neither the CSU EA nor the bank notified the CC4HF Board or the 4-H Clubs of this change in status, which is a bit unusual since changes for organizations generally require minutes showing approval.

The clandestine banking change made effectively **granted her full control of these funds** with the ability to freeze funds and designate signatures **without the approval of the governing Board.** It went beyond CSUE's guidelines for access to information and Ms.Glowacki stated at the BOCC workshop that non-profit funds should not be in control of only one person. Both State and Federal regulations for non-profits state that the use of non-profit funds is to be governed by a Board of unrelated individuals, not just one.

4) The CSU EA did not previously disapprove of CC4HF funds for non-educational purposes such as improvement of livestock pens. She brought similar issues to the CC4HF Board for approval for a Saddle Club tractor repair, electrical work at the fair grounds, and she worked with a former Commissioner to potentially accept donations for Fair Grounds Capital Improvements through the CC4HF. Additionally, during the BOCC Workshop, Mr. Noble agreed that this use of funds, while not specifically "educational" in nature, could be assessed either way and gave an example of other uses for capital purposes.

5) Statements made at the BOCC Workshop that the \$4,000 donation was not budgeted for and used half of the funds **were not accurate.** CSU chartering guidelines state that \$1,000 should be left to maintain a balance. The CC4HF annual budget set aside \$1,000 for an educational purpose (also note if all are to be only for education, there's no need for this set aside) and added \$3,000 to the \$1,000 set aside balance, not designated for any specific purpose. This \$4,000 budgeted set aside had not been used when the decision was made to re-designate and donate for the livestock pens. The CC4HF knew of two

outstanding donations to be received-WMVCF, over \$3,000, and Cattlewomen 2016 APV dinner, estimated at \$2,000. The incoming Board still had over \$10,000 to begin the year of fundraising and activities- not just the recommended \$1,000! **The CC4HF Board approved the donation to provide for the safety of 4H youth in their activities and to provide a lasting, visible contribution to enhance the public perception of CC4HF, using previously budgeted funds and leaving significantly more than sufficient or required balances for the incoming Board.**

6) The CSU EA removed the sitting Vice President from her position with CC4HF without due process. The reason given was that she was “untrustworthy” because she asked the bank if someone other than an authorized signer could stop payment. While Ms. Glowacki stated the rules below don’t apply, the CC4HF is a registered non-profit organization with CO SoS. Treatment of volunteers is provided in the previously linked CSUE Handbook and due process is included in CO State statutes for non-profits:

“7COLORADO REVISED STATUTES 2011 TITLE 7, LABOR AND INDUSTRY, ARTICLE 121-27

Article 126-302. Termination, expulsion, or suspension. (1) Unless otherwise provided by the bylaws, no member of a nonprofit corporation may be expelled or suspended, and no membership or memberships in such nonprofit corporation may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith. (2) For purposes of this section, a procedure is fair and reasonable when either: (a) The bylaws or a written policy of the board of directors state a procedure that provides: (I) **Not less than fifteen days prior written notice** of the expulsion, suspension, or termination and the reasons therefor; and (II) **An opportunity for the member to be heard, orally or in writing**, not less than five days before the effective date of the expulsion, suspension, or termination by a person or persons authorized to decide that the proposed expulsion, termination, or suspension not take place; or (b) It is fair and reasonable taking into consideration all of the relevant facts and circumstances.”

7) The result of this clandestine takeover by the CSU EA is that funds donated by county residents and organizations were removed from county level control and given to a single, state appointed person without anyone being knowledgeable of this fact. Many donate locally for local control to benefit the welfare of local citizens and groups. Each county has its own personality and features. Custer County is agricultural with a livestock focus. Those interested in furthering future generations’ pursuits of these endeavors donate to support this focus. The CSU EA’s focus was anything but livestock as displayed by both her actions and her words, as shown by the many comments and letters provided to the BOCC, currently and in past years. Past letters and emails were also sent to CSUE, including from me.

The CSU EA harmed the reputation of the CC4HF as a locally governed organization and damaged the faith of donors that funds would be used for these purposes - as was expressed during the BOCC Workshop and in subsequent BOCC comments and letters to the BOCC. Audios of all BOCC meetings are available at custercounty.gov. The BOCC could be aware of other issues with the outgoing CSU EA. Commissioner Kattning remarked to Mr. Noble at the end of the BOCC Workshop that he appreciated his support in the past couple of years in dealing with Extension issues. Again, these issues may fall under a privacy rule and cannot be disclosed by the BOCC. **The Custer County 2017 budget allocated over \$99,000 to the CSU EA, with a separate budget item for Weed Control, and the county provides office space. This partnership with CSU was the basis for the BOCC having the authority to request a change in the CSU EA.**

It would seem reasonable for the BOCC and Attorney to review the events leading to the CSU EA take over of the CC4HF and its funds to determine if this was done with the notification of options and approval of the CC4HF Board at the time. If the BOCC desires local governance of the CC4HF, the CC4HF could pursue its own 501(c)(3) status with the IRS, file its own annual postcard Form 990, and enter into a MOU with the CO4HF for use of the name, emblems, etc., agreeing to provide annual financial reporting to the CO4HF, but not granting CSUE control. Alternately, donors will likely look for other local youth-oriented organizations to support in order to ensure local control with a local Board.

In all regards, it is a sad course of events for our community and especially for our 4-H youth who innocently get caught up in this drama. I hope this has helped to clarify and provide additional facts.

Respectfully,
Cheryl Laramore
Rural Custer County

Cc: CSU, CSUE & CO State 4-H Foundation Board

Additional information:

<https://colorado4h.wordpress.com/tag/irs-update-information-needed-for-4-h-tax-exempt-status/> dated November 19, 2010

"IRS Update – Information needed for 4-H Tax Exempt Status

We have been responding to changes in the tax exempt status of 4-H organizations for the past three years. We now have to plan for the end of the national 4-H IRS Group Exemption Number (GEN) and must collect current information on 4-H clubs and affiliated organizations. Our present plan is for the Colorado 4-H Foundation to pursue tax exempt status under 501(c)(3) regulations and apply for a group exemption number for our clubs and affiliates.

What does "tax exempt status" mean? It means that groups do not have to pay FEDERAL income tax. It also means that donors to organizations that are listed as tax exempt may claim their donation as a charitable contribution and claim a deduction on their federal income tax. It has nothing to do with sales tax exemptions.

What groups qualify to be on the new Colorado 4-H GEN and how?

1 Recognized 4-H "entities" who have charters. Chartered organizations are those that we (CSU Extension, 4-H Youth Development) accept responsibility for and who are accountable and compliant with all our policies. These include all of our 4-H clubs, Collegiate 4-H, county 4-H councils, junior leader clubs, etc. If any of these groups are not chartered in your county they should be.

2 Affiliated organizations may be included which a) provide support to 4-H, b) are under our control and supervision, c) are not separately organized (such as foundations with their own 501(c)(3) status), and d) have a memorandum of understanding (MOU) with Extension. These would include CAE4-HA, Colorado 4-H Leader's Council, county 4-H foundations which are not separately organized, county 4-H events, etc. The bottom line: every organization on our group list needs to be chartered or have an MOU with Extension. No charter or no MOU = no listing under the new GEN.

What groups should not be included on the new GEN?

1. Organizations currently listed that appear to be county fair livestock sale committees.
2. "Organizations" that appear to be no more than a checking account for a particular purpose.
3. Separately organized county 4-H foundations with their own 501(c)(3) status. However, these separately organized groups should still have an MOU with Extension if they use the 4-H name and emblem. There have been sale committees inappropriately listed on the GEN in the past. Why is this a problem? Sale committees are (or should be) part of county fair management and under control of county government, and not a part of 4-H. They are not under our control. The money spent on purchasing livestock is NOT a charitable contribution to 4-H and is not tax deductible for the purchaser.

What is the Excel spreadsheet all about?

This spreadsheet <http://www.colorado4h.org/blog/docs/2010/ListOfAll4hClubAffiliates-EXCEL-TEMPLATE.xls> is for you to fill out and return to our office with current information on 4-H clubs and affiliated organizations that should be included under the state GEN. This will become the statewide list that the IRS will use to transfer and list everyone appropriately. Accuracy is critical! Please check and recheck all of your entries. Following are instructions on each field in the spreadsheet:

- The *Employer Identification Number (EIN)* should be unique for each group. It should not be a Social Security number from a volunteer.
- The *Chapter Name* should be the same as on the groups' original charter. Please check the spelling and include the entire name of the group without abbreviations. If it is the "Cortez 4-H Club" list it that way not just as "Cortez."
- *Care Of Name*. There are two options. Some counties have already changed these names to those of an extension agent to facilitate required annual IRS reporting requirements. County offices take responsibility for filing the annual e-Postcard that acknowledges any change in the status of the group by the filing deadline. This assures an additional level of oversight of clubs and the IRS filing deadlines are met. The second option is to use the organizational leader's name and address. If the second option is used, they will receive any communications from the IRS. Changes in club leadership will need to be communicated with the IRS with the 990-N e-Postcard.
- *Address, City, State, and Zip*. This should align with the *Care of Name*.
- *Tax Home Choice and Name of Entity*. We will fill in these columns.

The deadline for submitting the Excel spreadsheet is February 1, 2011. Please e-mail the spreadsheet to ellen.butler@colostate.edu

Click on this link to view a sample MOU to adapt and use with affiliated 4-H organizations. <http://www.colorado4h.org/blog/docs/2010/SampleMOU.pdf>
Please call with your questions. – Dale Leidheiser"

https://nifa.usda.gov/sites/default/files/resource/Charters%20The%20Key%20to%20Official%20Recognition_0.pdf National 4-H instructions dated January 2011

“4-H Charters, either in certificate or letter form, issued by the United States Department of Agriculture (USDA) and signed by the Secretary of Agriculture’s designated representative are the only documents that officially recognize a 4-H Club and authorizes its use of the 4-H Name and Emblem for the conduct of 4-H Youth Development programs. The official 4-H Charter, issued by USDA, is obtained from the 4-H National Headquarters—USDA in two formats: certificate version (most widely used), and a letter version.

As formulated under Federal regulation Title 18 U.S.C. 707, —The Cooperative Extension Service, land-grant institutions, local 4-H Clubs and groups recognized by the Secretary of Agriculture...are authorized to use the 4-H Name and Emblem. 4-H Charters issued by USDA are the only documentation of that recognition. State and local charters that do not include a USDA signatory, are not considered official 4-H Charters.

State 4-H offices are expected to maintain documentation on the issuance of 4-H Charters to 4-H Clubs within their respective states. Charters should be issued when establishing a 4-H Club. For those 4-H Clubs that have been long established and verification of a valid Charter is not available, issuance of a new 4-H Charter is necessary.

Affiliated 4-H Organizations (such as Foundations, Councils, Camps, etc.) obtain their official recognition and authorization to use the 4-H Name and Emblem through a Memorandum of Understanding / Agreement between the organization and the Land Grant Institutions’ State or Local 4-H Extension Office.

4-H Charters are agreements. It is an agreement by the club with 4-H National Headquarters-USDA on the proper use of the 4-H Name and Emblem. And it is an agreement by the club with the Land Grant Institutions’ State or Local 4-H Extension Office to follow and abide by all state and local 4-H policies, procedures, and other requirements.

4-H Charters are agreements within the context of the overall 4-H Program. 4-H Charters do not qualify a 4-H Club as a legal entity according to state government and business policies and definitions. 4-H Charters do not allow a recognized 4-H Club to share their rights and privileges, like the use of the 4-H Name and Emblem, with any other person, group, or business. A 4-H Charter is required for any 4-H Club to use the 4-H Name and Emblem. “

<http://www.co.summit.co.us/DocumentCenter/View/10480> Colorado 4-H Fact Sheet dated July 2014

1. Definition of a Colorado 4-H Organization Qualified to be a Subsidiary

Any organization that functions for the purpose of furthering 4-H objectives and programs, that has been formally authorized to use the 4-H name and emblem, and if officially chartered by the Colorado 4-H program. This includes, but is not limited to, local 4-H clubs; county, regional or state councils and committees. It **may** also include county or regional **foundations** and groups when they operate under the guidance and control of Extension.

- According to the IRS, to be included as a subsidiary, a 4-H group must be under the guidance and control of Extension. **This means that affiliated groups that function under the authority of their own Board of Directors would not qualify for inclusion.** Those groups must establish their own tax exempt status and must enter into a Memorandum of Understanding with Extension and under some circumstances, with the Colorado 4-H Foundation.

<http://www.ext.colostate.edu/staffres/handbook/sec3-agreements.pdf#page=7> CSUE/County MOU sample-

“Section 1, County agrees: ... (e) To annually review this MOU at the beginning of each calendar year.
(f) To participate in the selection procedure of professional Extension staff... for the county in accordance with Colorado State University Extension Personnel Policies and Procedures. Section 2. Extension agrees: ... (b) **With the approval of the county**, recruit, appoint and supervise professional staff to serve in the county.”