

BOARD OF REGENTS
BRIEFING PAPER

Agenda Item Title: Proposed Amendments of Title 2, Chapter 5, adding a new Section 5.9.6 Regarding Shortened Notice of Termination for Administrative Faculty Hired after December 15, 2015, Except DRI

Meeting Date: September 10-11, 2015

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

Current Board Code provisions in Sections 5.9.1 and 5.9.3 provide notice of termination periods for administrative faculty of up to a full fiscal year or more, depending on when the notice is given. These lengthy notice periods are inefficient, costly and inconsistent with common business practices. The NSHE presidents have recommended shortening these notice periods.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

It is recommended that the Board approve the amendment to add a new Section 5.9.6, to provide shortened notice of termination for administrative faculty hired after December 15, 2015. The proposed notice periods are 30 calendar days in the first year of service and 60 calendar days in the second and subsequent years. The proposed amendments also provide for payment of the total amount due in lieu of notice (“severance pay”) with a minimum of 30 calendar days notice, and require that a statement of reasons in accordance with the Code, Title 2, Chapter 5, Section 5.2.3 be given contemporaneously with the notice.

The proposed amendment does not apply to DRI. Appropriate cross-references must be added to Sections 5.9.1, 5.9.2, 5.9.3, 5.9.4 and 5.9.5.

4. IMPETUS (WHY NOW?):

The presidents have recommended that the notice of termination periods be shortened.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The proposed Code amendments have been revised after receiving input received from NSHE constituents including Business Officers, Faculty Senate Chairs and others.
- The Board Chair has directed that this revised proposal be submitted to the Board for its consideration.
- The proposal has been revised:
 - To lengthen the notice period in the second and subsequent years to 60 calendar days.
 - To require that a statement of reasons in compliance with the Code, Title 2, Chapter 5, Section 5.2.3, must accompany the notice of termination.
 - To provide that employees may be given severance pay in lieu of notice with at least 30 calendar days notice.
 - To clarify that a notice of termination under this section, like all notices of termination or nonreappointment, is not subject to a grievance.
- The notice periods will provide sufficient time for employees to seek reconsideration of the action in accordance with the Code, Title 2, Chapter 5, Section 5.2.4.
- In accordance with Section 5.2.4, an employee has 15 calendar days after receipt

of the written notice of termination to request reconsideration.

- The current notice of termination time periods provide up to a full year of notice or even more depending on when the notice is given.
- The lengthy notice periods are costly and inefficient.
- Notice of termination provisions at other colleges and universities vary widely from as little as no notice being given to as much as a year or more in some cases.
- Employees who have been given notice of termination are likely not to be as effective during the notice time period.
- Reorganizations to achieve efficiencies often must be delayed during the notice periods.
- These lengthy notice periods are out of step with common business practices.
- The change will be applied prospectively in keeping with past practice.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- Shortened notices of termination for administrative faculty will make recruiting more difficult.
- The longer notices of termination are one of the few benefits that can be offered to new administrative faculty.

7. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

- Do not consider shortening the time periods for notice of termination for new administrative faculty.

8. COMPLIANCE WITH BOARD POLICY:

☐ Consistent With Current Board Policy: Title #_____ Chapter #_____ Section #_____
XAmends Current Board Policy: Title # 2 Chapter # 5 , add a new Section # 5.9.6 and appropriate cross-references in Sections 5.9.1, 5.9.2, 5.9.3, 5.9.4 and 5.9.5
☐ Amends Current Procedures & Guidelines Manual: Chapter #_____ Section #_____
☐
Other: _____
☐ Fiscal Impact: Yes ___ No X

PROPOSED REVISIONS – Board of Regents CODE
TITLE 2, CHAPTER 5,
Amendment to SECTIONS 5.9.1, 5.9.2, 5.9.3, 5.9.4 and 5.9.5
and
New SECTION 5.9.6 Notice of Termination for Administrative Faculty hired on or after
December 15, 2015, Except DRI

Additions appear in ***boldface italics***; deletions are [~~stricken~~ and bracketed]

5.9.1 Minimum Notice of Nonreappointment for Nontenured Academic and Administrative Faculty. Except as provided in Subsections 5.4.2, 5.9.2, 5.9.3, [~~and~~] 5.9.4 ***and 5.9.6*** of the NSHE Code, and unless provided otherwise in an employment contract, notice of nonreappointment to employment of nontenured academic faculty and administrative faculty hired before March 1, 2005, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the College of Southern Nevada, Great Basin College, Western Nevada College, Truckee Meadows Community College and the special units shall be given:

...

5.9.2 Shortened Notice of Nonreappointment for Nontenured Academic and Administrative Faculty for Financial Exigency.

...

(c) Nothing herein shall prevent the System institutions from not reappointing nontenured academic or administrative faculty members at the end of the term of their employment contracts because of financial reasons without a declaration of financial exigency by the Board of Regents under Subsection 5.4.5 of the NSHE Code if the notice of nonreappointment provided by Subsections 5.4.2, 5.8.2, [~~or~~] 5.9.1, 5.9.2, 5.9.3, 5.9.4 ***or 5.9.6*** of the NSHE Code is given.

5.9.3 Notice of Termination for Nontenured Academic and Administrative Faculty hired on or after March 1, 2005, Except DRI

Except as provided in Subsections 5.4.2, 5.9.1, 5.9.2, [~~and~~] 5.9.4, ***and 5.9.6*** of the NSHE Code, and unless otherwise provided in the contract of employment, nontenured academic and administrative faculty hired on or after March 1, 2005, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the College of Southern Nevada, Great Basin College, Western Nevada College, Truckee Meadows Community College and the special units may be given notice of termination by the appointing authority at any time after the commencement of employment. Such (non-reappointment) termination notice:

...

5.9.4 Notice of Termination for Non-Tenured Administrative Faculty at the rank of Dean or above hired on or after March 1, 2005, Except DRI

Except as provided in Subsections 5.4.2, 5.9.1, 5.9.2, [~~and~~] 5.9.3, ***and 5.9.6*** of the NSHE Code, and unless otherwise provided in the contract of employment, non-tenured administrators of the rank of dean or higher to include those who directly report to the Provost or President, hired on or after March 1, 2005, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the Community College of Southern Nevada, Great Basin College, Western Nevada Community College, Truckee Meadows Community College and the special units may be given a notice of termination by the appointing authority at any time after the commencement of employment. Such notice of termination shall be given:

...

5.9.5 Effective Date of a Notice of Non-Reappointment or Notice of Termination

The effective date of a Notice of Nonreappointment under Subsections 5.9.1 and 5.9.2, or a Notice of Termination under Subsections 5.9.3, ~~and~~ 5.9.4, **and 5.9.6** is the date of delivery if hand-delivered, or if mailed, the date of mailing. Notices are deemed received on the date the notice is hand-delivered or the date the notice is mailed.

5.9.6 Notice of Termination for Administrative Faculty hired on or after December 15, 2015, Except DRI

Except as provided in Subsections 5.4.2, 5.9.1, 5.9.2, 5.9.3 and 5.9.4 of the NSHE Code, and unless otherwise provided in the contract of employment, administrative faculty hired on or after December 15, 2015, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the College of Southern Nevada, Great Basin College, Western Nevada College, Truckee Meadows Community College and the special units may be given notice of termination by the appointing authority at any time after the commencement of employment.

- (a) The termination notice must be accompanied by a statement of reasons in accordance with the Code, Title 2, Chapter 5, Section 5.2.3. Such termination notice and statement of reasons:
 - i. If in the first calendar or fiscal year of service shall be given at least 30 calendar days in advance of date of termination;*
 - ii. If in the second and subsequent calendar or fiscal years of service shall be given at least 60 calendar days in advance of date of termination.**
- (b) For employment contracts of less than one calendar or fiscal year's duration, notice must be given for a period of time which may be mutually agreed upon by the parties to such employment contracts, but, in all events, shall be given no less than 14 calendar days in advance of the termination of such contracts.*
- (c) At the discretion of the appointing authority, the administrative faculty member may be granted pay in lieu of notice. However, the employee must be given a minimum of 30 calendar days written notice of the intent to give pay in lieu of notice.*
- (d) The contract of employment of a nontenured administrative faculty member is terminated at the expiration of the appropriate notice period whether or not the notice period ends during the fiscal year the notice is given, or as of the date payment in lieu of notice is made.*
- (e) A decision to issue a notice of termination and/or pay in lieu of notice under this section is not subject to review by grievance procedures established in accordance with Section 5.7 of the NSHE Code.*