

**BOARD OF REGENTS
BRIEFING PAPER**

Agenda Item Title: **Proposed Amendment to Board of Regents Bylaws, Article VII, Section 3.e.14.3.e-Effect of Termination on Compensation of President**

Meeting Date: **June 4-5, 2015**

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

The Board of Regents Bylaws, Article VII, Section 3.e.14.e, since 2005, has provided that upon termination for certain causes listed in Article VII, Section e.3.14.c, a president would continue to receive base salary. The contract form for presidents has recently been changed to provide that upon termination for any of the causes in Section 3.e.14.c, a president receives no further payments, including salary and any other allowance, perquisite or supplement. If the president holds tenure, then the president's salary in his or her tenured position is set in accordance with the Presidential Transition policy in Title 3, Section 3, Subsections 1-3.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

It is recommended that Article VII, Section 3.e.14.e be amended to reflect the current presidential contract form.

4. IMPETUS (WHY NOW?):

This submission will conform the Bylaw provision to the current practice and the Board will no longer have to waive the current policy when approving a presidential contract.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- A president who is terminated for any cause should not receive any salary, remaining housing allowance, automobile allowance, host account, or other perquisites or salary supplements.
- The Board's current practice when approving a president's contract includes the changes noted above to Article VII, Sec. 3.e.14.e.
- The Board has approved the contracts of Presidents Johnson, Richards and Patterson with this new language.
- The proposed changes will eliminate the requirement for the Board to waive current policy when approving a president's contract.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- None.

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

- None

8. COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title # ____ Chapter # ____ Section # ____

Amends Current Board Policy: Title #1, Article VII, Section 3.e.14.e

Amends Current Procedures & Guidelines Manual: Chapter # ____ Section # ____

Other: _____

Fiscal Impact: Yes ____ No X ____

PROPOSED REVISIONS – Bylaws of the Board of Regents
TITLE 1, Article VII – Officers of the University
Section 3.e.14.e

Effect of Termination on Compensation of President

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

Section 3. Chancellor

The chancellor is the chief executive officer and treasurer of the Nevada System of Higher Education and is responsible to the Board of Regents for the administration of and the financial management of the Board's policies.

- a. The chancellor is appointed by and serves at the pleasure of the Board of Regents. The chancellor shall have a written contract that outlines the terms and conditions of the appointment.
- b. The chancellor shall be evaluated annually in writing by the Chair of the Board in accordance with procedures approved by the Board of Regents. The Chair shall present his or her findings to the Board for its review.
- c. The chancellor shall be evaluated periodically by a committee of the Board of Regents in accordance with procedures approved by the Board of Regents. The periodic evaluation shall normally take place not later than the next-to-last year of each contract period.
- d. Procedures for annual and periodic salary determinations for the chancellor shall be established by the Board of Regents.
- e. Duties of the chancellor are prescribed by the Board of Regents and include, but are not limited to, the following. The chancellor may delegate any of the duties of the office unless expressly prohibited by Board policy.
 1. To promote a sound plan of organization in concert with the institutional presidents to insure administrative efficiency, maximum utilization of resources, and to facilitate cooperation among the member institutions;
 2. To be responsible, with the full cooperation and input of the presidents, for the planning processes of the NSHE;
 3. To prepare in collaboration with the Board Chair and committee chairs the agenda of all meetings of the Board of Regents and its committees;
 4. To be responsible for the presentation of all NSHE matters to the Governor's Office and the State Legislature;
 5. To be responsible in collaboration with the Board Chair for official communication on behalf of the Board of Regents;
 6. To establish the practices under which the financial administration of the NSHE will be conducted;
 7. To assure that all budgets are executed in accordance with the intent of the Board of Regents and the Legislature;

8. To serve as contracting officer for the NSHE and to execute all contracts and other instruments on behalf of the University unless authority has been expressly retained by the Board of Regents or delegated elsewhere;
9. To provide for internal audits and to assist the Board of Regents in the appointment of its independent auditors;
10. To recommend appointment of special counsel;
11. To be the appointing and evaluating authority of all professional personnel not assigned to a member institution;
12. To evaluate the annual performance of each president of the member institutions in accordance with procedures established by the Board of Regents and to provide a confidential summary of the findings to the Board of Regents;
13. To participate in the periodic performance evaluation of each president in accordance with procedures established by the Board of Regents.
14. To discipline presidents as follows:

- a. Discipline for Cause.

The president's employment agreement may be terminated for cause or the president may be disciplined for cause by the chancellor. Without regard to and not subject to any of the provisions or procedures of the NSHE Code, Title 2, Chapter 6, the chancellor may take any of the following disciplinary actions for cause against the president:

1. Issue a warning;
2. Issue an oral or written reprimand;
3. Remove from office and terminate the employment contract.

Any disciplinary action shall only be taken in consultation with the Chair of the Board.

- b. Progressive Discipline.

Except in cases of serious violations which have a substantial negative impact on the System or on any institution or unit, principles of progressive discipline shall be followed. The less severe measures of warnings or reprimands are first imposed and the more severe measure of termination is applied only if the less severe measures are ineffective. The chancellor will, within five (5) working days after imposition, provide written, confidential notification to the Board of any disciplinary action taken.

- c. Prohibited Activity.

The following conduct shall constitute cause for imposition of any of the discipline set forth above:

1. Failure to perform the duties for which the president is employed.
2. Failure to maintain a required level of performance as provided in Title 2, Chapter 5, Section 5.12 of the Nevada System of Higher Education Code.

3. Incompetence or inefficiency in performing the duties for which the president is employed.
4. Insubordination, which is defined as disobedience of a lawful written order.
5. Falsification of employment applications or documents submitted to the System, its member institutions or its special units, or making other false or fraudulent representations in securing employment.
6. Intentional misrepresentation of a material fact that has a substantial adverse impact on the System, its member institutions or its special units.
7. Conviction of any criminal act involving moral turpitude.
8. Being under the influence of intoxicants, or, without a valid medical excuse, being under the influence of controlled substances as defined in the *Nevada Revised Statutes*, while on duty, due consideration being given to NRS 284.379.
9. Unauthorized absence from duty or abuse of leave privileges.
10. Personal or professional conduct which shows that the president is unfit to remain in the position or which has an ascertainable harmful or adverse effect on the efficiency of the institution.

d. Disciplinary Procedure.

The chancellor shall give the president written notice of intent to discipline. The written notice must describe the circumstances of the alleged prohibited conduct and must include all available materials and documentation to support the charges. The president may present a written response to the chancellor within 10 working days after receipt of the notice. The president may appeal a termination, but not other discipline, to the Board of Regents, using the procedures established in Section 6.13 of the Code, Title 2, Chapter 6, so far as they can be made applicable and subject to the following: the appeal must be filed with the secretary of the Board of Regents; and the chancellor may file a written reply to the appeal with the secretary of the Board of Regents. The appeal must be filed within 10 working days after receipt of a written notice of intent to terminate from the chancellor. The imposition of termination is stayed pending a decision from the Board of Regents on the appeal. There is no right to an evidentiary hearing with regard to any proposed discipline.

e. Effect of Termination on Compensation of president.

1. Upon termination for any of the causes set forth in [~~sections c.5-8~~] ***section c, Prohibited Activity***, hereinabove, in the event the president does not hold tenure, the president shall not be entitled to the payment of any salary and shall not be entitled to payment of any remaining housing allowance, automobile allowance, host account, other perquisites or salary supplements funded by a foundation. [~~Upon termination for any of the causes set forth in sections c.1-4 or c.9-10, hereinabove, in the event the president does not hold tenure, the president shall be entitled to the lump sum payment of base salary only for the balance of the remainder of this contract term. Base salary does not include any remaining housing allowance, automobile allowance, host account, other perquisites or salary supplements funded by a foundation.~~]
2. Upon termination for ***any of the causes set forth in section c, Prohibited Activity, hereinabove***, in the event the president does hold tenure in an appropriate academic department of a System institution, the president shall be reassigned from the presidential position to an employment position as a full time member of the academic faculty of the institution ***and shall not be entitled to the payment of any remaining salary, allowance,***

automobile allowance, host account, other perquisites or salary supplements funded by a foundation which are set forth in the terms of the president's employment contract. Upon termination for any of the causes set forth in section c hereinabove and reassignment to a tenured position, the president's salary shall be determined in accordance with Title 4, Chapter 3, Section 33, Subsections 1-3 (Presidential Transition). [~~If the termination is for any of the causes set forth in sections c. 1-4 and 9-10 hereinabove, upon reassignment, the president will continue to receive the base salary only for the balance of the remainder of this contract term. If the termination is for any of the causes set forth in sections c. 5-8 hereinabove, upon reassignment to a tenured position, the president will continue to receive the base salary only for the remainder of the fiscal year in which the contract as president is terminated, and thereafter, the president's salary shall be determined in accordance with Title 4, Chapter 3, Sections 26(1)-(3). Base salary does not include any remaining housing allowance, automobile allowance, host account, other perquisites or salary supplements funded by a foundation.~~]