

BOARD OF REGENTS

BRIEFING PAPER

1. **AGENDA ITEM TITLE:** Handbook Revision, Professional Staff Collective Bargaining Regulations

MEETING DATE: September 11-12, 2025

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

While it is anticipated that there may be additional sections of the Professional Staff Collective Bargaining Regulations that may be presented to the Board for revisions at a later date, this agenda item focuses on sections 5, 6, 7, 9 and 10 as the first set of revisions to submit for discussion and possible approval. These sections address the application, election and balloting process when an employee organization seeks an election to be recognized as an agent for collective bargaining; funding of collective bargaining agreement (CBA) provisions; prohibition of any CBA provision modifying or amending the NSHE Code; citations within the CBA to any provision of Title 4 of the Board of Regents *Handbook* that is modified by the CBA; and the process for submitting a CBA to the Board for ratification.

Section 5

Section 5 provides the requirements for an employee organization seeking to represent System employees in their employment relationship. Proposed revisions would require this application to go not only to the Chancellor but also to the relevant institution President.

Section 6

The Board recently implemented the current Section 6 election process at the March 2025 quarterly meeting. The proposed changes to Section 6 clarify the role of the relevant member institution President in verifying application requirements related to the campus percentages. The relevant member institution President notifies the employee organization of, and provides for, the election, which is conducted by the American Arbitration Association. Section 6 also expands the deadline for when the election must be held.

Section 7

Corresponding changes are made in Section 7, which also expands the time to hold a run-off election. In the event that an election has been announced and another employee organization seeks to be included in the election, that organization must demonstrate support of 30% of the employee members of the bargaining unit to be included on the ballot.

Section 9

Proposed changes to Section 9 affirm the funding requirements for CBAs. A CBA provision must be fully funded by funds appropriated and made available to the System by the Nevada Legislature.

Section 10

This proposed revision sets forth requirements for a report from the relevant member institution President to the Board detailing certain fiscal considerations as well as how the provisions may differ from Title 4 of the Board of Regents *Handbook* and institutional bylaws. The proposed revision reinforces that no provision of a CBA may modify the NSHE Code (Board of Regents *Handbook*, Title 2).

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Chancellor Matt McNair requests approval of revisions to the Board of Regents *Handbook*, Title 4, Chapter 4, Sections 5-7 and 9-10 addressing topics including the application, election and balloting process when an employee organization seeks an election to be recognized as an agent for collective bargaining; funding of collective bargaining agreement (CBA) provisions; prohibition of any CBA provision modifying or amending the NSHE Code; citations within the CBA to any provision of Title 4 of the *Handbook* that is modified by the CBA; and the process and reporting requirements for submitting a CBA to the Board for ratification.

4. IMPETUS (WHY NOW?):

- Discussion of the election process at the March quarterly meeting illuminated a need for revisions related to elections.
- Members of employee groups within NSHE have presented public comment requesting that the Professional Employee Collective Bargaining Regulations be updated.
- Bargaining at each of the four institutions with recognized employee organizations has begun or will begin this fall.

5. CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- ☐ Access (Increase access to higher education)

- ☐ Success (Improve student success)
- ☐ Close Institutional Performance Gaps
- ☐ Workforce (Meet workforce needs in Nevada)
- ☐ Research (Increase solutions-focused research)
- ☐ Coordination, Accountability, and Transparency (Ensure system coordination, accountability, and transparency)
- ☒ Not Applicable to NSHE Strategic Plan Goals

6. INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

N/A

7. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Institution Presidents are well-positioned to determine whether the requirements for an election have been met on their campuses.
- The American Arbitration Association has successfully conducted elections on four NSHE campuses.
- To speak on behalf of a bargaining unit, an employee organization should win the votes of a majority of the employees in the bargaining unit via an election conducted by third-party neutral American Arbitration Association with consistent ballot language set by the Board of Regents *Handbook*. The requirement for affirmative votes from a *majority of eligible employees in the unit* (as opposed to a majority of votes from those who choose to participate in the election) is consistent with the election standard for local government employees under NRS 288.160.
- The election process permits employees to cast their votes in private, away from the pressure of a signature drive, where there could be pressure to appease the person requesting signatures.
- Board policy has a longstanding history of requiring CBA provisions with fiscal impacts not be effective until funds are appropriated and made available by the Legislature.
- The reporting requirements proposed in Section 10 will improve transparency when CBAs are presented to the Board for ratification.
- The fiscal considerations of a CBA and how the CBA provisions may differ from Title 4 of the Board of Regents *Handbook* should be clear to not only the Board but also the public.
- The NSHE Code sets forth the process for amending the Code, which has the force and effect of law. *See* NSHE Code, Chapter 1, section 1.3.3. CBAs cannot amend the Code and circumvent this process without potentially violating Board policy and Open Meeting Law.

8. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

Do not revise these provisions without revising other provisions in the chapter.

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

Do not approve the revisions.

10. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

The Chancellor's Office supports these revisions as proposed.

11. COMPLIANCE WITH BOARD POLICY:

- ☐ Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
- ☒ Amends Current Board Policy: Title 4, Chapter 4 Sections 5-7, 9-10
- ☐ Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- ☐ Other: _____
- ☐ Fiscal Impact: Yes _____ No ☒ x _____
Explain: _____

POLICY PROPOSAL - HANDBOOK
TITLE 4, CHAPTER 4, SECTIONS 5-7
Professional Staff Collective Bargaining Regulations
Representative Application, Election, Balloting Shall Be in Two Parts
Additions appear in ***boldface italics***; deletions are [~~stricken~~ and bracketed]

Section 5. Representative Application

1. An employee organization seeking to represent System employees in their employment relationship must submit an application in writing to the Chancellor ***and relevant institution President*** and include the following:
 - a. A copy of its articles of incorporation ***and/or charter***;
 - b. A copy of its bylaws;
 - c. A roster of its officers and representatives, including name, address, and official function or title;
 - d. Identification of the ***bargaining*** unit sought for representation; and
 - e. Signed evidence of interest in being represented by the employee organization from no less than 30% (thirty[~~}]~~ percent) of all of the eligible professional employees contained in the unit sought.
 - f. In order to establish a single, separate community college bargaining unit, an application must also contain signed evidence of interest in being represented by an employee organization in such a community college bargaining unit from no less than 30% (thirty percent) of all of the eligible professional employees of any community college in the System whose faculty may desire to collectively bargain, and this shall authorize the [~~Board of Regents~~] ***relevant member institution President*** to hold a representation election, as provided in Sections 6 and 7 of this chapter, only among the professional employees of the community college(s) whose faculty have submitted an application required by this section through an employee organization. Any other community college professional employees may participate in the election by submitting an application through an employee organization as required by this section no later than [~~ten~~] ***twenty-one (21)*** calendar days prior to the date of the scheduled election.
2. Any revision or changes as to paragraphs a., b., and c. of subsection 1 shall be furnished to the Chancellor, ***the relevant member institution President*** and [~~to~~] each member of the employee organization.

Section 6. Election

1. Upon verification by ~~[the Chancellor]~~ **the relevant member institution President in consultation with their general counsel** that the ~~[above]~~ **application** requirements **set forth in Section 5** have been met, the ~~[Chancellor]~~ **President** shall ~~[place the application for recognition on the agenda as an action item of the next regularly scheduled meeting of the Board of Regents.]~~ **notify the employee organization and the Chancellor in writing that the requirements set forth in Section 5 have been met and, in coordination with the employee organization,** ~~[The Board of Regents shall at that meeting provide for]~~ **file a written request with** the American Arbitration Association to conduct an election in accordance with its rules **and as set forth in this Section and Section 7**. The election by secret ballot among the employees for whom representation is sought shall be held no sooner than ~~[45]~~ **thirty (30)** calendar days and no longer than ~~sixty [30]~~ **(60)** calendar days from the date of the ~~[Board of Regents meeting at which the request was presented]~~ **President's written notification pursuant to this Section**.
2. Ballots for the election shall be mailed to all eligible professional employees for the bargaining unit involved **no later than fifteen (15) calendar days prior to the election**. The professional employees receiving the ballots shall be given the option, ~~[to]~~ **which will** be stated on the ballot, of casting their votes either by **(a)** return mail or **(b)** in person at designated voting locations and at designated times and dates.

Section 7. Balloting Shall Be in Two Parts

1. In an election among the employees for whom representation is sought, two issues may be placed on the same ballot, the first of which in all events must be placed on the ballot and the second of which must be placed on the ballot only if two or more employee organizations have applied for representation of professional employees.
2. ~~[If]~~ **If** only one employee organization has applied for representation of professional employees, the first part of the ballot shall be worded as follows: (Name of employee organization) has applied to represent all of the eligible professional employees in (identify the bargaining unit) for purposes of collective bargaining with the NSHE. If a majority of all of the eligible professional employees in the bargaining unit for whom representation is sought vote "yes", then (name of employee organization) shall be elected to serve as the professional employees' bargaining agent.

Vote for one alternative:

_____ Yes, I want (name of employee organization) designated as my agent for collective bargaining purposes.
~~[(B/R-2/90)]~~

_____ No, I do not want collective bargaining.

3. If two or more employee organizations have applied for representation:

- a. The first part of the ballot shall be worded as follows: ~~[Several]~~ **Two or more** employee organizations have applied to represent all the eligible professional employees in (identify the bargaining unit) for purposes of collective bargaining with the NSHE. If a majority of all of the eligible professional employees in the bargaining unit for whom representation is sought vote "yes", then one of the employee organizations on the second part of the ballot shall be elected to serve as the professional employees' bargaining agent.

Vote for one alternative:

_____ Yes, I want ~~{(name of employee organization)}~~ to designate[d] **an employee organization** as my agent for collective bargaining purposes.
[(B/R-2/90)]

_____ No, I do not want collective bargaining.

- b. If a majority of all of the eligible professional employees in the **bargaining** unit for whom representation is sought fail to vote "yes", the party or organization conducting the election shall not count the votes cast for labor organizations on the second part of the ballot.
- c. The second part of the ballot shall be worded as follows: If a majority of all of the eligible professional employees in the bargaining unit for whom representation is sought vote "yes" in favor of designating an agent for collective bargaining purposes, one of the following organizations shall be so designated. Regardless of how you voted on the first part of the ballot, vote for one of the organizations listed below to serve as agent for collective bargaining purposes. The employee organization receiving a majority of the votes cast shall be elected to serve as the professional employees' bargaining agent, provided the requisite minimum number of "yes" votes has been cast in the first part of the ballot.

_____ (organization)

_____ (organization)

_____ (organization)

4. After ~~[the Board of Regents has set]~~ the date of the election **has been set and announced**, additional employee organizations seeking to represent the eligible professional employees of the **bargaining** unit in question may file an application with the Chancellor **and relevant member institution President** no later than ~~[ten]~~ **twenty-one (21)** calendar days prior to the election. The application shall contain the information specified in Section 5, subsections a. through [d]e. of this chapter. If **the relevant member institution President verifies that the application requirements have been met and if** the application contains signed evidence

of interest in being represented by the employee organization from no less than **30%** [~~40 (ten)~~] (**thirty** percent) of all the eligible professional employees contained in the **bargaining** unit in question, the organization shall be included on the ballot of the election.

5. The results of the election shall be binding on all parties as of the date certified by the party or organization conducting the election, and no other application or elections involving the same bargaining unit shall be accepted or permitted for a period of one calendar year from the date of the certification, with the exception of a runoff election which might be necessitated where no employee organization received a majority of the votes cast in a two-part ballot. Runoff elections shall be held no sooner than five (**5**) calendar days and no longer than [~~ten~~] **fifteen (15)** calendar days after the election. Only the top two (**2**) vote-getting employee organizations from the previous election shall be listed on the ballot for the runoff election. The employee organization receiving a majority of the votes cast in a runoff election shall be elected to serve as the professional employees' bargaining agent.
6. When an election is held only among the eligible professional employees of one or more community colleges, as provided in Section 5(1)(f) of this chapter, the following procedures shall be in effect:
 - a. If a community college bargaining unit is established as provided in Sections 5, 6 and 7 of this chapter and if the professional employees of one or more community colleges have also elected not to belong to the community college bargaining unit as provided in those sections, the professional employees of any such nonparticipating community college may seek to join the community college bargaining unit at a later time by filing an application through an employee organization and by participating in an election under the provisions of Sections 5, 6 and 7 of this chapter. However, such an application may not be filed for a period of more than 180 calendar days nor less than 120 calendar days before the date of expiration of any bargaining agreement then in existence under this chapter. The ballot shall be limited to the single issue of whether the professional employees of the community college(s) involved wish to be represented or not by the employee organization already representing the professional employees who are already in the bargaining unit. For this purpose the ballot established in Section 7(2) of this chapter shall be used.
 - b. After the professional employees of any community college elect to belong to a single, separate community college bargaining unit, the professional employees of a community college in the unit cannot choose to leave the community college bargaining unit. This paragraph shall not be deemed to prohibit the decertification, under Section 8 of this chapter, of an employee organization representing all of the professional employees of the community college bargaining unit.

POLICY PROPOSAL - HANDBOOK
TITLE 4, CHAPTER 4, SECTIONS 9-10
Professional Staff Collective Bargaining Regulations
External Funding, Agreements Shall Be in Writing

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

Section 9. External Funding

The System is constrained by funding resources external to its control and subject to approval by bodies not [~~participant~~] ***participating*** in negotiations such as are provided by these regulations. No provision of any bargaining agreement negotiated pursuant to this chapter which requires the expenditure of funds ***in an amount that would require a fiscal note pursuant to NRS 218D.430*** [~~for any purpose~~] shall be effective unless ***such provision is expressly conditioned upon appropriation*** and until funds are ***fully*** appropriated and [~~are~~] made available to the System by the Nevada Legislature. ***Any provision of a bargaining agreement that violates this Section is void and unenforceable.*** It is therefore imperative that the negotiating parties function in a spirit of mutual respect and cooperation toward the achievement of their common, as well as individual, objectives.

Section 10. Agreements Shall Be in Writing

1. It is the duty of the System and the employee organization designated as the bargaining agent for the unit to negotiate in good faith through their chosen representatives as required by this chapter.
2. All agreements reached shall be reduced to writing and submitted for ratification to the professional employees represented by an employee organization and to the Board of Regents. ***No provision of the agreement may modify or amend the NSHE Code. No provision of the agreement that conflicts with Title 4 of the Board of Regents Handbook may be valid and enforceable unless the provision of the agreement modifying Title 4 includes specific citations to the relevant Handbook provisions being modified. Any provision of a bargaining agreement that violates this Section is void and unenforceable.***
3. ***Along with the submission for ratification by the Board of Regents, the relevant member institution President shall submit to the Board a report detailing:***
 - a. ***the fiscal impact of the agreement and a description of each provision of the agreement that requires the expenditure of funds pursuant to Section 9 of this chapter;***
 - b. ***whether the financial terms of the agreement are supported by funds that have been appropriated or made available to the System by the Nevada Legislature;***
 - c. ***the total amount of funds required to be appropriated and made available to the System by the Nevada Legislature to fund all provisions of the agreement;***

- d. certification that all provisions of the agreement comply with Section 9 of this chapter;*
 - e. identification of any provisions in the agreement that conflict with Title 4 of the Board of Regents Handbook or institutional bylaws with citations to the relevant Handbook provisions or institutional bylaws; and*
 - f. certification that no provisions of the bargaining agreement conflict with the NSHE Code.*
4. If the agreement is ratified by both parties, then it shall be signed by legally empowered representatives.
- [3]5. Community colleges may negotiate separate bargaining agreements.