

Discipline of the Presidents and Chancellor

On October 14, 2022, the ad hoc Committee to Review the Roles and Responsibilities of the Chancellor met and walked through a discussion guide that was utilized to facilitate conversation and establish consensus on issues previously raised by the committee that were considered critical decisions concerning the role of the Chancellor as chief executive of the system. In its discussion, the Committee discussed the discipline of Presidents and the Chancellor. Currently, the discipline procedures for presidents are included in the Chancellor's job description at *Title 1, Article VII, Section 3*. Further, there are no provisions in the *Handbook* currently for the discipline of the Chancellor.

Consensus of Committee: Based on the consensus of the ad hoc Committee to Review the Roles and Responsibilities of the Chancellor, revise *Handbook* to establish a separate section for the discipline of a President consistent with the existing provisions of *Title 1, Article VII, Section 3*; and further clarify that the Chancellor cannot terminate a President; termination of the President must be in a step in progressive discipline procedures; and that a recommendation from the Chancellor to terminate a president must be made with the consent of the Chair and Vice Chair. If the Chair and Vice Chair do not agree to the need and steps for discipline of the President, the chair of the Board's Audit and Compliance Committee should be consulted to reach agreement. If the Chair of the Audit and Compliance Committee is currently in the role of Vice Chair of the Board, the Chair of the Board's Budget, Finance and Facilities Committee shall be consulted to reach agreement.

In addition, revise the *Handbook* to delineate the progressive discipline procedures in place for a president should also apply to the Chancellor. The Committee agreed that progressive discipline of a Chancellor should be administered by the Chair and Vice Chair and if they do not agree to the need and steps for discipline, the Chair of the Board's Audit and Compliance Committee should be consulted to reach agreement. If the Chair of the Audit and Compliance Committee is currently in the role of Vice Chair of the Board, the Chair of the Board's Budget, Finance and Facilities Committee shall be consulted to reach agreement.

Staff recommends establishing the following new sections: *Title 1, Article VII, new Section 5* (Discipline of Presidents) and *new Section 6* (Discipline of the Chancellor). See the attached Policy Proposal.

POLICY PROPOSAL
Title 1, Article VII, *new* Section 5
Discipline of Presidents

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

INSERT THE FOLLOWING NEW SECTION 5:

Section 5. Discipline of Presidents

a. *Discipline for Cause.*

The President's employment agreement may be terminated for cause or the President may be disciplined for cause. 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. Recommend termination of the employment contract. The Chancellor cannot independently terminate the President but shall take the recommendation for termination to the Board for approval.*

Any disciplinary action shall only be taken with the consent of the Chair and Vice Chair of the Board. If there is disagreement between the Chair and Vice Chair in regard to disciplinary action for the President, the Chair of the Board's Audit, Compliance and Title IX Committee shall be consulted to reach agreement. If the Chair of the Audit, Compliance and Title IX Committee is in the role of Vice Chair of the Board, the Chair of the Budget, Finance and Facilities Committee shall be consulted to reach agreement.

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 chief of staff 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 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.*
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).*

POLICY PROPOSAL
Title 1, Article VII, *new* Section 6
Discipline of the Chancellor

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

INSERT THE FOLLOWING NEW SECTION 6:

Section 6. Discipline of the Chancellor

a. *Discipline for Cause.*

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

- 1. Issue a warning;*
- 2. Issue an oral or written reprimand;*
- 3. Recommend termination of the employment contract. The Chair and Vice Chair cannot independently terminate the Chancellor but shall take the recommendation for termination to the Board for approval.*

If there is disagreement between the Chair and Vice Chair in regard to disciplinary action for the Chancellor, the Chair of the Board's Audit, Compliance and Title IX Committee shall be consulted to reach agreement. If the Chair of the Audit, Compliance and Title IX Committee is in the role of Vice Chair of the Board, the Chair of the Budget, Finance and Facilities Committee shall be consulted to reach agreement.

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 Chair 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 Chancellor 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 Chancellor 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 Chancellor 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 Chair shall give the Chancellor 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 Chancellor may present a written response to the Chair within 10 working days after receipt of the notice. The Chancellor 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 chief of staff of the Board of Regents; and the Chair in consultation with the Vice Chair 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 Chair. 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 Chancellor.*

1. *Upon termination for any of the causes set forth in Section c, Prohibited Activity, hereinabove, in the event the Chancellor does not hold tenure, the Chancellor 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.*
2. *Upon termination for any of the causes set forth in Section c, Prohibited Activity, hereinabove, in the event the Chancellor does hold tenure in an appropriate academic department of a System institution, the Chancellor shall be reassigned from the Chancellor 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 Chancellor's employment contract. Upon termination for any of the causes set forth in Section c hereinabove and reassignment to a tenured position, the Chancellor's salary shall be no more than that of a leading academic faculty member in the field or discipline to which the outgoing Chancellor is reassigned.*