

**BOARD OF REGENTS
BRIEFING PAPER**

Agenda Item Title: Request for Approval of Amendments to University of Nevada, Reno

Bylaws

BACKGROUND & POLICY CONTEXT OF ISSUE:

At its November, 2006 meeting, the Board of Regents adopted new language for the Handbook allowing for a single process to resolve disputes over merit and evaluation. The proposed changes to the UNR Bylaws bring the relevant sections into compliance with the added language in Title 2 of the Handbook.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

President Glick requests approval of amendments to the University of Nevada, Reno bylaws.

IMPETUS (WHY NOW?):

Changes to the Board of Regents Handbook require changes to the UNR Bylaws so the two are congruent. The amendments proposed for approval have been approved by Faculty Senate and the faculty at-large.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The amendments bring the bylaws into conformance with Board of Regents Handbook.
- The amendments have been approved both by the Faculty Senate and the Faculty-at-large.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None.

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

The amendments could not be approved and the bylaws would not reflect changes in the Board of Regents Handbook.

COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title #2 Chapter #1 Section #1.3.4
- Amends Current Board Policy: Title #_____ Chapter #_____ Section #_____
- Amends Current Procedures & Guidelines Manual: Chapter #_____ Section #_____
- Other: _____
- Fiscal Impact: Yes _____ No X _____
Explain: _____

33. PROCEDURES FOR INITIATING A GRIEVANCE

[Petitioners initiating a grievance for denial of appointment with tenure, salary increase, or promotion see 33a and 33b. For all other grievances, see 33b.]

a. Petitioners initiating a grievance regarding a disagreement with an annual evaluation rating or denial of salary increase may first request reconsideration as provided for in Subsections 3.4.5, 5.2.3, and 5.2.4 5.12.3 and 5.16 of the Code as a part of the grievance procedure. In connection with review of merit pay, "denial of a salary increase" means review of the step or level of merit in accordance with Section 5.16 of the Code.}

The petitioner may file a request for reconsideration regarding a disagreement with his or her annual evaluation rating or denial of salary increase, in accordance with Subsections} 5.2.4 {5.12.3 and 5.16 of the Code within 15 calendar days of the date he or she received written reasons for the action or decision. The request for reconsideration shall be submitted in writing to the petitioner's department chair, supervisor, or dean together with the reasons, arguments, and documentation supporting the request for reconsideration. The petitioner's department chair, supervisor, or dean who rendered the negative decision shall promptly direct the request for reconsideration through regular administrative channels up through the President's Office with recommendations for or against reconsideration of the decision (except that the supervisor is not required to state reasons for an adverse annual evaluation under Section 5.2.3 if the reasons for the evaluation are stated in the evaluation). Final action shall be taken within a reasonable time by the president after receipt of the recommendations. [except if the President, after reconsideration, decides to recommend appointment with tenure, the final decision regarding tenure must be made by the Board of Regents., 33b. Cases of reconsideration of non-appointment or non-reappointment are not eligible for grievance.]

If the petitioner is dissatisfied with the President's decision after reconsideration, within 15 working days after the receipt of the President's decision, the petitioner may file a written Notice of Grievance as described in 33c} 33b.

{b.} Petitioners initiating a grievance for denial of appointment with tenure, [salary increase] or promotion may first request reconsideration as provided for in Subsections 3.4.5, 5.2.3, and 5.2.4 of the Code as a part of the grievance procedure.

The petitioner may file a request for reconsideration of the denial of appointment with tenure [, salary increase,] or promotion, in accordance with Subsection 5.2.4 of the Code within 15 calendar days of the date he or she received written reasons for the action or decision. The request for reconsideration shall be submitted in writing to the petitioner's department chair, supervisor, or dean together with the reasons, arguments, and documentation supporting the request for reconsideration. The petitioner's department chair, supervisor, or dean who rendered the negative decision shall promptly direct the request for reconsideration through regular administrative channels up through the President's Office with recommendations for or against reconsideration of the decision. Final action shall be taken within a reasonable time by the president after receipt of the recommendations, except if the President, after reconsideration,

decides to recommend appointment with tenure, the final decision regarding tenure must be made by the Board of Regents.

If the petitioner is dissatisfied with the President's decision after reconsideration, within 15 working days after the receipt of the President's decision, the petitioner may file a written Notice of Grievance as described in 33c [33b]. Cases of reconsideration of non-appointment or non-reappointment as provided in Subsections 5.4.2., 5.9.1, 5.9.2, 5.9.3, and 5.9.4 of the Nevada System of Higher Education Code are not eligible for grievance (Code 5.7.2).

Rationale: Reflects current language added to the Code in December, 2006. Code language provides that NSHE institutions may use grievance and reconsideration for review of adverse evaluation ratings and denial of salary. Also, inserts the Code reference for those not eligible for grievance.

c [b]. A petitioner may institute a grievance by filing a written Notice of Grievance with the Chair of the-Faculty Senate within 15 working days from the date the petitioner gains knowledge of the act or omission to act being challenged. The Notice of Grievance shall contain 1) a brief statement of the act or omission to act that is being challenged; 2) the reasons supporting the grievance; and 3) the remedy sought. The chair of Faculty Senate shall serve the Notice of Grievance on the respondent at the time it is filed.

Upon completion of a hearing by the University Grievance Committee, the recommendation of the Committee shall be forwarded to the President for final decision.

Final action shall be taken by the President. However, the approval of the Board of Regents shall be required for appointment to tenure. In cases requiring the Board of Regents' approval, the President may request an oral presentation to the Regents of the reasons for and against the personnel action before final decision. (B/R 1/99)

Chapter III - PROFESSIONAL RESPONSIBILITIES EVALUATION AND PERSONNEL RECOMMENDATIONS

36. EVALUATION

Each faculty member shall be evaluated in writing at least once annually by department chairs, supervisors or heads of administrative units according to the above-specified professional responsibilities. The performance evaluations of executive and supervisory faculty shall include consultation with the professional and classified staff of the administrative unit. All performance evaluations shall include a rating of (i) "excellent," (ii) "commendable," (iii) "satisfactory," or (iv) "unsatisfactory." An overall evaluation of "excellent" or "commendable" shall be considered meritorious. Each person shall submit documentation, as specified in department, unit, and University bylaws, for evaluation. The evaluation of each person shall carry a signed statement indicating that he

or she has read the evaluation or has waived the right to read it. If the faculty member disagrees with [any part of the evaluation] the annual evaluation rating, he or she may submit a written rejoinder (Code 5.16) and/or may [the peer review process as defined in Bylaw 37] initiate a reconsideration and/or grievance through regular administrative channels as specified in Bylaw 33a.

All evaluations shall be initiated by the department and shall be made on the basis of equitable and uniform criteria. Evaluations of instructional faculty shall include an assessment of teaching evaluations completed by their students. Quality of performance for each area of professional activity shall be assessed according to procedures and criteria specified in department, unit, and University bylaws. For academic faculty, evaluations shall include peer review. For tenure-track faculty members, external peer review shall be required for promotion or tenure, as specified in unit and/or department bylaws. All evaluations [and any subsequent peer review processes] shall be conducted in accordance with principles of judicious review, here defined as careful and professional assessment of admissible evidence materials presented so as to insure a just and equitable recommendation. Faculty shall, upon request, have access to materials used by the supervisor in writing the evaluation, including the results of, but not the originals of, student evaluations and comments, and in the case of administrative faculty whose evaluations include surveys, the results of, but not the originals or copies of, such surveys. In responding to such a request, the supervisor must ensure the anonymity of the students and the survey respondents. With the exception of the results of such student evaluations and comments and such surveys, anonymous materials shall not be considered by the supervisor. Faculty members receiving an overall rating of "unsatisfactory" on their evaluation shall be provided with constructive feedback in the written evaluation for improving their performance. This constructive feedback must include a written plan for improvement, which must be specific and must be provided at the time of the first "unsatisfactory" rating.

Rationale: Reflects Code specification of the annual evaluation 'rating' as that which can be grieved.

[37. PEER REVIEW PROCESS

Board of Regents policy (ref. Title 4, Chapter 3, section 4.5) provides that "academic and administrative faculty who disagree with the supervisor's evaluation may submit a written rejoinder and/or request a peer evaluation as provided in the institution's bylaws. The supervisor's official evaluation and the faculty member's rejoinder and/or peer evaluation will be retained in the faculty member's personnel file."

REJOINDER

If a faculty member disagrees with her/his evaluation, s/he may, within 10 working days after signing the evaluation, submit a written rejoinder. The dean/vice president will be responsible for placing the rejoinder in all applicable personnel files.

PEER REVIEW

Whether or not the faculty member submits a written rejoinder, s/he may, within 15 working days after signing the evaluation, file a request for peer review with the Faculty Senate office and shall provide copies of the request to the chair/supervisor and dean/vice president. Within 10 working days of receiving a request for peer review, the senate chair shall appoint a three-member faculty review committee. The committee members shall be appointed as follows. One person shall be selected by the faculty member. One person shall be selected by the faculty member's chair/supervisor. The third

person, who shall serve as chair of the review committee, shall be selected by the senate chair from a list of names provided by the Provost's Office. The senate office shall notify all concerned parties that the review committee has been convened.

The senate chair shall call a meeting of the committee within 10 working days of appointing the members. The committee shall conduct and conclude its review within 20 working days after its first meeting. The committee's charge shall be to: 1) review all written materials submitted by the faculty member and chair/supervisor and gather additional information from other parties as the committee chair deems necessary; and 2) submit a report and , if appropriate, new evaluation based on its conclusions. The report and, if applicable, new evaluation and all working papers from the committee, shall be submitted to the dean/vice president.

a. Upon receipt of the committee's report and, if appropriate, new evaluation, the dean/vice president shall send copies to the faculty member and chair/supervisor and applicable personnel file, along with a notification stating that the peer review has been completed. The new evaluation will be retained in the faculty member's personnel file along with the supervisors' official evaluation and any written rejoinder made previously by the faculty member. If the peer evaluation results in a recommendation that the initial evaluation be changed, that recommendation shall be forwarded to the president or designee of the institution, who, at his or her discretion, may change the faculty member's evaluation by means of an addendum attached to the front of the evaluation stating how the evaluation is being changed and the reasons for the change. If the president or designee does not change the evaluation, the reasons shall also be stated by means of an addendum attached to the front of the evaluation. The president or designee shall sign the addendum and provide a copy to the faculty member.

b. Once the peer review process is complete, all documents and working paper concerning the peer review shall be retained in the dean/vice president's office. The dean/vice president shall send a memo to the Faculty Senate stating only whether or not the peer review committee's review did or did not result in a change in the evaluation and that the applicable documentation has been filed appropriately.

c. If the peer review committee revises the faculty member's evaluation as a result of the peer review, the dean/vice president may make changes with regard to merit.]

Rationale: As review of annual evaluation ratings is herein reviewed through grievance procedures, this section is no longer relevant.

38. PERSONNEL RECOMMENDATIONS

All tenure, promotion, and annual evaluations shall be made on the basis of the person's professional performance in meeting the responsibilities specified in Section 35 39. All such evaluations shall be initiated at the department level and forwarded to the appropriate administrator. After review, the administrator shall inform each faculty member of the final recommendation, within 15 calendar days from the date of making the recommendation. If the faculty member disagrees with the recommendation regarding tenure, an annual evaluation rating, a salary increase, promotion or reappointment to employment, he or she may ask for reconsideration through regular administrative channels as specified in the Code, Subsection(s) 5.2.4, 5.12.3, and 5.16 within 15 calendar days of the receipt of the written reasons (except that the supervisor is not required to state reasons for an adverse annual evaluation under section 5.2.3 if the reasons for the evaluation are stated in the evaluation).

Any changes in title of an academic faculty member within Rank 0 status shall be subject to the same established personnel review procedures as used in changes in rank.

The Code (Subsections 5.11.1, 5.11.2) requires that procedures for annual evaluation shall be established in institutional bylaws. These evaluations provide a primary source for decisions concerning tenure, promotion, and salary increases. Therefore, each unit within the University is obligated to define further the procedures employed for the annual evaluation process as well as provisions for accountability.

The purpose of meritorious evaluations should be perceived by the faculty and administration alike not only as the rewarding of excellence, but as an opportunity for each faculty member to assess his or her performance within the academic community and to improve that performance with reference to specific and uniform written criteria applied by each department or appropriate unit in the evaluation process. Moreover, it is understood that a meritorious evaluation is a matter of academic record, a recognition of performance deserving of special note, regardless of the current availability of funds for direct merit award.

(B/R 1/99)

Rationale: Reflects added Code language making annual evaluation ratings grievable.