

**BOARD OF REGENTS
BRIEFING PAPER**

1. AGENDA ITEM TITLE: Policy Proposals – Use of Board Approved Template Employment Contracts for Athletic Directors and Coaches

MEETING DATE: May 31, 2018 Meeting of the Athletics Committee

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

At the last meeting of the Athletics Committee on February 22, 2018, direction was given to bring forth a policy proposal revising the current policy on the use of the Board approved template employment contracts for athletic directors and coaches. Specifically, the direction was to clarify the circumstances under which the approved templates must be used – e.g. for high dollar contracts and not for all assistant coaches. Attached for the Committee’s consideration are two Policy Proposals that amend the relevant provisions of the *Board of Regents’ Handbook* and the *Procedures and Guidelines Manual* to make clear that the Board approved template employment contract only needs to be used when the proposed coach or athletic director contract exceeds the “AD Threshold” (\$200,000 or more and 24 months or more).

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

That the Committee approve the attached Policy Proposals revising Title 4, Chapter 24, Section 1, Subsection 10 of the *Board of Regents’ Handbook* and Chapter 5, Section 14 of the *Procedures and Guidelines Manual* to clarify the circumstances under which the institutions must use the Board approved employment contract for athletic directors and coaches.

4. IMPETUS (WHY NOW?):

At its last meeting on February 22, 2018, the Committee conducted a review of the current policy authorizing institution presidents to execute employment contracts for athletic directors and coaches. At that meeting direction was given to revise the policy to clarify that the Board approved template employment contract for athletic directors and coaches does not need to be used for all coach contracts. It was required that staff prepare revisions to the policy that establish an appropriate threshold of the use of those template employment contracts.

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

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21st century Nevada and raise the overall research profile)
 - Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

N/A.

6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The Board approved template employment contracts were developed for use in high dollar employment matters – e.g. athletic directors and certain head coaches. The template employment contracts are not necessary for all head coaches and most assistant coaches.
- The attached Policy Proposals establish an appropriate monetary threshold for the use of the Board approved template employment agreements.

7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- The Board approved template employment agreements can be adapted by the institutions to any employment matter and therefore should be used for all coach and athletic director contracts.

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

- The attached Policy Proposals establish a \$200,000 threshold for the use of the Board approved template employment contracts for athletic directors and coaches. The Committee could determine that a different threshold is appropriate.

9. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

That the Committee approve the attached Policy Proposals revising Title 4, Chapter 24, Section 1, Subsection 10 of the Board of Regents' Handbook and Chapter 5, Section 14 of the Procedures and Guidelines Manual in order to clarify the circumstances under which the institutions must use the Board approved employment contract for athletic directors and coaches.

10. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title #_____ Chapter #_____ Section #_____
- Amends Current Board Policy: Title 4, Chapter 24, Section 1, Subsection 10 (Athletic Directors and Coaches)_____
- Amends Current Procedures & Guidelines Manual: Chapter 5, Section 14 (Athletics Coach and Director Agreements, Checklist and Guidelines)
- Other:_____
- Fiscal Impact: _____ No_____ Explain:_____

POLICY PROPOSAL - HANDBOOK
TITLE 4, CHAPTER 24, SECTIONS 1, SUBSECTION 10
(Athletic Directors and Coaches)

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

10. Athletic Directors and Coaches

- a. Athletic Directors. Institution Presidents may appoint an athletic director and, subject to the requirements of this subsection 10, are authorized to execute an employment contract related to such appointment. Institution Presidents shall not make joint appointments to the position of athletic director and the athletic director shall at all times report directly to the institution President. The institution President shall negotiate the employment contract for the appointed athletic director with the assistance of institution counsel. The institution President may authorize the athletic director to appoint certain assistant athletic directors or other personnel necessary to the operation of the athletic department, upon such conditions that may be established for the hiring of such personnel and subject to any and all applicable requirements and policies established by the institution and the Board, including without limitation, those related to equal opportunity and diversity.
- b. Athletic Coaches. If authorized by the institution President, athletic directors may appoint and execute employment contracts for head athletic coaches and assistant athletic coaches provided the contract: (a) does not exceed twenty-four (24) months in length (including any option periods); and (b) does not exceed \$200,000.00 in total compensation per year (collectively the “AD Threshold”). Institution Presidents shall appoint and are exclusively authorized to execute employment contracts for all head athletic coaches and assistant coaches that exceed the AD Threshold. For purposes of the AD Threshold, “total compensation” does not include standard fringe benefits available to all NSHE employees, including but not limited to retirement contributions, insurance, travel, out-of-pocket expense reimbursement, annual and sick leave, and outside income from sources including but not limited to commercial endorsements of products and services, income from written and video materials, summer camps or apparel and equipment endorsements. The hiring of all athletic personnel shall be subject to all applicable requirements and policies established by the institution and the Board, including without limitation, those related to equal opportunity and diversity.
- c. Contract Certification. At the time an employment contract for: (i) an athletic director; or (ii) any athletic coach that exceeds the AD Threshold is executed, the institution President shall certify that:

- (1) the financial terms of the employment contract are reasonable in the context of the market for the position and the appointee's professional reputation and expertise;
- (2) the institution has, or reasonably expects to have, the funds necessary to pay all sums that may be owed to the athletic director or coach under the employment contract; and
- (3) the institution President has conducted a reasonable and thorough background investigation on the athletic director or coach, including verification of any degrees or academic credentials claimed by such athletic director or coach (the "Contract Certification").

- d. **Funds Disclosure.** At the time an employment contract for: (i) an athletic director; or (ii) any athletic coach that exceeds the AD Threshold, is executed, the institution shall provide a description of the source of all funds anticipated to be used to pay all sums that may be owed under the contract (the "Funds Disclosure"). As part of the Funds Disclosure, the institution President shall certify that all donor or third-party funds described in the Funds Disclosure are: (i) in possession of the institution; or (ii) backed by legally enforceable pledge or gift agreements. The Funds Disclosure must also include a detailed analysis of the impact the employment contract will have on the budget and financial condition of the athletic department.
- e. **Diversity Report.** At the time an employment contract for: (i) an athletic director; or (ii) any athletic coach that exceeds the AD Threshold, is executed, the institution shall provide a report outlining the methods used to obtain a diverse pool of candidates for the position and compliance with applicable institution and Board policies related to diversity and equal opportunity (the "Diversity Report").
- f. **Submission of Certifications and Disclosures.** The institution President shall provide the Contract Certification, the Funds Disclosure, and the Diversity Report to the Chancellor and the Chief of Staff of the Board of Regents: (i) within thirty (30) days after the execution of any initial employment contract for an athletic director or any athletic coach that exceeds the AD Threshold; and (ii) within twenty-four (24) hours after the execution of any amendment or renewal of an employment contract with an athletic director or athletic coach who is a current employee that exceeds the AD Threshold. The President shall be held personally responsible by the Board of Regents for the accuracy of the Contract Certification, Funds Disclosure, and the Diversity Report, and any failure to comply with requirements related to those documents shall be cause for disciplinary action against the President.
- g. **Form of Employment Contract.** In negotiating any employment contract for an athletic director or athletic coach *that exceeds the AD Threshold*, the institution President and institution counsel shall utilize the contract template, checklist, and guidelines, if any,

[~~applicable to that position~~] approved by the Board as set forth in the procedures established by the Chancellor's Office. Any and all variations from the applicable contract template must be noted in the checklist and shall include a detailed explanation of the reasons and bases for the variation. The institution President shall, within twenty four (24) hours after the execution of any employment contract *that exceeds the AD Threshold*, provide a copy of the signed employment contract *and* checklist to the Chancellor and Chief of Staff of the Board of Regents. No public announcement or confirmation of hiring may be made by the institution *for any hire that exceeds the AD Threshold* until the signed employment contract and contract checklist is provided to the Chancellor and Chief of Staff. In addition, the prospective athletic director or coach shall not undertake or assume any activities or duties of the position until he or she has executed the employment contract.

- h. No Involvement in Search Process. The Board and individual Regents shall not be involved in the search process related to the positions of athletic director, athletic coach, or any other athletic department personnel. Members of the Board may refer the name of a potential candidate in writing to the Chancellor who in turn shall provide the referral in writing to the institution President without attribution of the Rev. 277 (12/17) Title 4, Chapter 24, Page 9 source of the referral. Members of the Board shall not formally nominate a candidate, and shall not serve formally or informally on any search committee or in any way attempt to influence the search process for athletic directors, athletic coaches or other athletic personnel.
- I. Compliance with other policies. The search process and appointment of all athletic directors, athletic coaches, and other athletic personnel shall comply with all other applicable requirements and policies of the institution and Board, including those related to equal opportunity and diversity

NSHE Procedures and Guidelines Manual
CHAPTER 5, new SECTION 14
(Athletics Coach and Director Agreements, Checklists and Guidelines)

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

Section 14. Athletic Coach and Director Agreements, Checklist and Guidelines

A. Athletic Coach and Athletic Director Contract Guidelines

1. **Appointments.** Appointments of Athletic Coaches, Assistant Coaches and Athletic Directors shall be made in accordance with Title 4, Chapter 24, Section ***1, Subsection 10*** and these Guidelines.
2. **Changes to Template Language.** The approved templates shall be used for Athletic Coach, Assistant Coach and Athletic Director contracts ***that exceed the AD Threshold as that term is defined in Title 4, Chapter 24, Section 1, Subsection 10.*** The contract terms may be varied by negotiation only in accordance with the provisions of Title 4, Chapter 24, Section ***1, Subsection 10*** and these Guidelines. It is anticipated that not all of the template terms may be appropriate for assistant coach contracts. However, the institutions should try to minimize revisions. Changes to the template language [~~for head basketball and football coach contracts~~] must be justified in writing as an attachment to the Contract Checklist, which must be submitted to the Chancellor and the Chief of Staff of the Board of Regents within 24 hours after the execution of any employment contract.
3. **Term of the Contract[?].** Long term contracts create huge potential liquidated damages and other monetary liabilities for the institution. The institution must address its ability to pay for those potential liabilities as part of the certifications and disclosures required under Title 4, Chapter 24, Section ***1, Subsection 10.*** [~~Note: The revisions to Title 4, Chapter 24 require the President to submit certifications and disclosures to the Chancellor and Chief of Staff of the Board of Regents.~~]
4. **Contract Checklist.** The Contract Checklist shall be completed and submitted to the Chancellor and Chief of Staff of the Board of Regents for [~~head basketball and football coach contracts~~] ***coach or athletic director contracts that exceed the AD Threshold*** within 24 hours of the execution of a contract.
5. **Diversity Efforts.** The institution shall provide written information regarding its efforts to obtain a diverse pool of candidates as an attachment to the Contract Checklist. An outside review of the institution process may be used.