

BOARD OF REGENTS
BRIEFING PAPER

1. Agenda Item Title: Changes to the NSHE Handbook Title 5, Chapter 2,
Bylaws of the Desert Research Institute

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

Clarification for section 5.3.2 Visiting Professor/Scientist -- Clarifications related to renewal of Visiting Scientists and Professors depending on whether or not they are supported by DRI funds.

Change to 5.3.3 Postdoctoral Fellow -- Requested exceptions to NSHE policy that align DRI's Postdoctoral Fellow support with our practice of considering our postdoctoral colleagues as more aligned with faculty and technologists.

Clarification of process for Grievance so due process is available to faculty members.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Additions in Bold
[Deletions Stricken in Brackets]

Title 2, Chapter 5
5.3.2 Visiting Professor/Scientist

Any ~~distinguished~~ individual **supported by DRI funds** may be appointed by the President to a nonrenewable **temporary** position in the Research Professor or Research Associate ranks with the designation "visiting" for a period of not more than 364 days. **An individual supported from non-DRI funds (appointment does not provide NSHE salary or benefits), upon recommendation by a DRI Division, may be appointed to an annually renewable position in the Research Professor or Research Associate ranks.** ~~Visiting Professors/Scientist may or may not carry salary and/or only earned benefits (TBD by director with president's approval, as described on the application form).~~ **The form *Application for Visiting Professor/Scientist* must be completed and filed with the Human Resources Office.** ~~The appointees~~ **Visiting Professors/Scientists** are nonvoting members of the faculty.

Appendix A – DRI Bylaws Definitions
Visiting Professor/Scientist

~~Visiting Professor/Scientist: Any individual may be appointed by the President to a nonrenewable position in the Research Professor or Research Associate ranks with the designation "distinguished" for a period of not more than 364 days. This appointment may or may not carry salary and/or only earned benefits (TBD by director with president's approval, as described on the application form). The appointees are nonvoting members of the faculty.~~

Title 2, Chapter 5
5.3.3 Postdoctoral Fellow

A Postdoctoral Fellow (Rank I) is a temporary, scholarly position under the direction of a faculty sponsor established for the fellow's continuing education and professional growth. Completion

of a doctoral degree in an appropriate discipline is a requirement for appointment. Postdoctoral Fellows are salaried, and appointments are for a limited term (one calendar year with renewal for a sequential second and third year depending on funding and performance). Renewal beyond this period shall be made only under exceptional circumstances to be determined by the appropriate Vice President in consultation with the Executive Director ~~but shall in no cases exceed five sequential calendar years. Appointees receive benefits and employment conditions are defined in Title 4, Chapter 7 of the NSHE Code. A Postdoctoral Fellowship will not exceed a total of five years.~~

Postdoctoral appointees receive benefits and employment conditions as defined in Title 4, Chapter 7 of the NSHE Code with the following additions: postdoctoral appointees (1) may accrue up to 48 days of annual leave and sick leave at the end of each fiscal year; (2) may request annual leave sell back of up to 5 annual days if they have accrued at least 20 days of annual leave, take a minimum of 5 consecutive days of annual leave, and do not have a negative balance; (3) receive grant-in-aid benefits for employee and dependents according to Title 4, Chapter 18, Section 5; and (4) receive payment for up to 48 days of annual leave upon termination of employment.

9.1 Grievance

A grievance (**Regents Handbook, Title 2, Chapter 5 NSHE Code 5.7.2**) is in response to an act or omission to act by a DRI administrator allegedly resulting in an adverse impact on a faculty member's employment conditions relating to salary, promotion or other aspects of contractual status, or relating to alleged violations of the **Regents Handbook, Title 2 NSHE Code** or **DRI the Bylaws**. Decisions of the ~~Board of Regents~~ or decisions involving non-reappointment to employment, termination of faculty for financial or programmatic reasons (Bylaws Sections 6.3 and 6.4) and annual performance evaluations (Bylaws Section 8.4) are not subject to review by grievance procedures.

~~A grievance hearing shall be called when appropriate as outlined below by a grievance review committee for the purposes of reviewing a grievance. Such a hearing shall be informal and fact-finding in nature and shall be considered a personnel matter and shall be conducted with appropriate confidentiality.~~

~~A grievance review committee shall be established by the Faculty Senate Chair upon request of the VPAA VPAFS or the Faculty Senate Executive Committee (EC) who must find that there is cause to believe that the standards given below are met. The **Grievance Committee** will consist of three faculty appointed by the Executive Board of the Faculty Senate **Executive Committee** from the voting faculty of DRI. The VPAA VPAFS will be informed when the committee has been established. A detailed grievance resolution process is detailed in the DRI administrative manual.~~

A faculty member may institute a grievance by filing a written notice of grievance with the VPAFS and the chair of the Faculty Senate within 40 working days of the knowledge of the act, omission, or violation of the Regents Handbook. The notice of grievance shall contain: (1) a brief statement of the act, omission, or policy that is being challenged; (2) reasons supporting the grievance; and (3) the remedy sought. A review of the grievance will be conducted according to the following procedure. Such a review shall be informal and fact-finding in nature, shall be considered a personnel matter, and shall be conducted with appropriate decorum.

The procedure is as follows:

- 1. The Faculty Senate Chair will call for the formation of a Grievance Committee when requested by either the VPAFS or the Faculty Senate Executive Committee. The primary charge to the Grievance Committee will be findings of fact concerning the notice of grievance. The scope of grievance procedures is defined in the Regents Handbook.**
- 2. The Faculty Senate Executive Committee will appoint the Grievance Committee members within 10 working days following consultation with the VPAFS. The Grievance Committee will consist of three individuals (two research faculty members and one administrative faculty member) who have no conflict of interest related to this issue.**
- 3. Once formed, the Grievance Committee within 5 working days will determine which of the three individuals will chair the Committee and will inform all parties, including the Faculty Senate Executive Committee and the VPAFS, when the Grievance Committee has been organized.**
- 4. All written material (notice of grievance and DRI administration statement) shall be provided to all concerned parties at least 10 working days prior to scheduled interviews. The DRI administrative statement shall address the same three points as the faculty grievance. The Grievance Committee has latitude on how to conduct the informal fact-finding activities, but it is generally expected that employee, representative(s) for the employer, and others with pertinent information will be interviewed individually.**
- 5. The Grievance Committee will complete its investigation within 20 working days following their organization.**
- 6. Following the investigation, the Grievance Committee shall make findings of fact in a written report to the President within 5 working days. During this period, the Grievance Committee can request additional materials as a necessary part of its fact-finding mission.**
- 7. In accordance with Regents Handbook, Title 2, the recommendation(s) of the Grievance Committee are advisory only.**
- 8. Within 3 working days after receiving the recommendation of the Grievance Committee, the President shall render his/her decision to dismiss the charge, sustain the charge, or take other corrective action he/she deems necessary. The President's decision shall include a brief written explanation to the faculty member.**
- 9. Upon rendering of the President's decision, the current Grievance Committee will be discharged of its duties and disbanded.**
- 10. With the President's decision related to the grievance, the employee may file no further grievance related to the issue or issues being considered. The employee may request a copy of the Grievance Committee report within 20 working days of receiving the decision from the President.**

4. IMPETUS (WHY NOW?):

An NSHE audit team found that the Visiting Professor/Scientist policy was not clear. In addition,

DRI had not clearly defined its Postdoctoral Fellow benefits policy vis-à-vis BOR policy. DRI now clearly defines its Postdoctoral Fellow benefits as distinct from standard BOR policy. A grievance in the last year highlighted that eliminating the DRI personnel manual removed the details of the grievance procedure from our policies.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Clarification to the Bylaws for Visiting Professor/Scientist.
- Adopting a competitive Postdoctoral Fellow benefits package.
- Defining the grievance process.

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 # _____
- X Amends Current Board Policy: Title # 5 Chapter # 2 Section # 5.3.2
Title # 5 Chapter # 2 Section # 5.3.3
Title # 5 Chapter # 2 Appendix A
Title # 5 Chapter # 2 Section # 9.1
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes _____ No X
Explain: _____