

BOARD OF REGENTS
BRIEFING PAPER

Agenda Item Title: Proposed Amendment to Board of Regents' Handbook, Title 2, Chapter 5, Section 5.4.9, to add a new subsection b regarding Transfer of Administrators.

Meeting Date: **March 3-4, 2016**

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

In light of the efficiency and effectiveness initiative, the review and study of sharing or consolidation of services among institutions is ongoing. The sharing or consolidation of services may require the transfer of administrative faculty. Board policy does not address the transfer of administrative faculty. The proposed policy is intended to help facilitate the inter-institutional sharing or consolidation of services.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

It is recommended that the Board of Regents' Code, Title 2, Chapter 5, Section 5.4.9 be amended to add a subsection addressing a process for Chancellor approval of the transfer of administrative faculty between institutions or units.

4. IMPETUS (WHY NOW?):

The lack of Board Policy on transfer of administrative faculty has been identified as an impediment to the efficiency and effectiveness initiatives and the sharing or consolidation of services between institutions.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- In consideration of input received at the December 2015 Board meeting, the proposed policy has been revised:
 - To limit the use of this policy to shared services initiatives approved by the Board of Regents;
 - To require the transfer plan to address the liability for annual leave, which can include sharing by the institutions/units and/or directing employees to use leave;
 - To require an initial written memorandum from the Chancellor to the presidents, faculty senates and affected administrators addressing the issues set forth in the policy;
 - To clarify that in accordance with the transfer plan, annual and sick leave transfers with the employee to the new institution/unit; and
 - To clarify that transferred DRI employees, may exercise their right to sell back a portion of annual leave and to receive payment for a portion of sick leave at the time of transfer.
- A final written decision addressing the issues set forth in the policy must be provided by the Chancellor, after obtaining input from presidents, faculty senates and the affected employees.
- The proposed policy is needed in order to facilitate sharing or consolidation of services between institutions or units.
- In the absence of a specific policy allowing transfer of administrative faculty, the implementation of shared or consolidated services can be significantly delayed.
- Under current policy, in order to effect a transfer, an administrative faculty member would have to be given notice of termination (which can be as much as a

year) and then offered a new contract at the new institution.

- The proposed policy requires the following:
 - Chancellor approval of the transfers administrators;
 - Transfers of administrators are limited to shared services initiatives approved by the Board of Regents;
 - The Chancellor shall provide a written recommendation regarding any proposed transfer to the presidents and faculty senates of the affected institutions and to the employee(s) considered for transfer which addresses:
 - the business purpose for the transfer and the impact on services;
 - consideration of alternatives;
 - the financial and budget impact of the transfer, including but not limited to the allocation of costs or savings between the institutions involved;
 - the liability for annual leave, which may include, but not be limited to shared liability between the institutions/units, and/or directing employees to use leave; and
 - Any specific and extraordinary impact on affected individuals.
 - The presidents, faculty senates and affected employees shall have the opportunity to provide written input within 30 calendar days after receipt of the Chancellor's recommendation.
 - The Chancellor shall issue a written final decision which must address all of the issues set forth above.
 - A copy of the Chancellor's decision shall be provided to the Board.
 - The transferred administrative faculty member would continue as a member of the faculty with all rights and privileges of the faculty of the System institution or unit to which the administrator is transferred;
 - Except as provided in the transfer plan, earned sick and annual leave shall transfer with the administrator to the new institution/unit;
 - DRI employees may request before transfer to sell back a portion of annual leave and for payment of a portion of sick leave in accordance with DRI Bylaws, Chapter 10, Sections 10.1 and 10.3.
 - Transfer between northern and southern offices (including DRI-north and DRI-south, System Admin/SCS—north and south), and between GBC and Reno/Carson institutions without the employee's consent would be prohibited (if consent is given, moving costs would be provided in accordance with state law).
 - Tenure-eligible and tenured-faculty are excluded.
 - The transfer of an administrator by the Chancellor is not subject to appeal, statement of reason, reconsideration or grievance.
- Note:
 - The term "administrators" is defined in the Code in Section 1.1(b) and means administrative faculty employed in executive, supervisory or support positions.
 - Cross-references to notice of termination provisions have been added. The reference to Section 5.9.6 is included in anticipation of Board approval in December of the proposed Section 5.9.6 Shortened Notice of Termination provision. If that provision is not approved by the Board, the references to Section 5.9.6 will be removed.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- All transfers of administrative faculty between institutions should only occur with

the consent of the affected employee.

- The delay associated with transfer of administrative faculty under current policy is appropriate.

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

- Do not adopt a policy allowing the Chancellor to approve the transfer of administrative faculty between NSHE institutions and units.

8. COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title #_____ Chapter #_____ Section #_____

Amends Current Board Policy: Title #2, Chapter 5, new Section 5.4.9.b

Amends Current Procedures & Guidelines Manual: Chapter #_____ Section #_____

Other: _____

Fiscal Impact: Yes No

Note: Although transfer of administrative faculty may have a fiscal impact, that impact cannot be estimated at this time. Under the proposed policy, the Chancellor must address the budget impact of such transfers in the recommendation and in the final decision.

PROPOSED REVISIONS – Board of Regents CODE

TITLE 2, CHAPTER 5,

Amendment to SECTION 5.4.9-adding a new *Section 5.4.9.b-Transfer of Administrators*

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

5.4.9 Reassignment and Transfer of Administrators.

a. Reassignment of Administrators. An administrator who is not otherwise employed with tenure serves in an administrative capacity at the pleasure of the appointing authority. Such an administrator may be removed from the administrative position without cause, reasons or right of reconsideration. However, if such an administrator is relieved of the administrative title and duties for the position which the administrator occupied the administrator shall continue as a member of the faculty, with all rights and privileges of the faculty, of the System institution in which the administrator was employed until the completion of the administrator's contract of employment unless the contract provides otherwise. During that period of time, the administrator shall be reassigned to duties within the System institution. Nothing in this section shall be interpreted as abrogating the notice of nonreappointment provisions of Subsections 5.4.2, 5.8.2, 5.9.1, **5.9.2, 5.9.3, 5.9.4 and 5.9.6** of the NSHE Code.

b. Transfer of Administrators.

1. Process.

In order to support shared services initiatives approved by the Board of Regents, the Chancellor may transfer an administrator to any NSHE institution or unit, in accordance with the restrictions of this policy. For purposes of this section, the term “administrators” means administrative faculty employed in executive, supervisory or support positions, and excludes faculty in tenure-eligible positions and tenured faculty. Before making the decision to transfer an administrator, the Chancellor shall provide a written recommendation regarding the transfer of an administrator to the presidents and the faculty senates of the institutions affected by the transfer, and to the administrator(s) being recommended for transfer. The Chancellor’s written recommendation shall address the following:

- 1. The business purpose for the transfer and the impact on services;*
- 2. The consideration of alternatives;*
- 3. The financial and budget impact of the transfer, including but not limited to the allocation of costs or savings between the institutions involved;*
- 4. The liability for employee annual leave, which may include, but is not limited to sharing of the liability by the institutions/units and/or directing employees to use leave; and*
- 5. Any specific and extraordinary impact on affected individuals.*

The administrators proposed to be transferred, presidents and faculty senates of the institutions affected, shall have the opportunity to provide written input within thirty (30) calendar days after receipt of the Chancellor's written recommendation. The Chancellor shall issue a written final decision providing a final version of the original justification as well as the final recommendation. A copy of the written decision of the Chancellor shall be provided to the Board of Regents.

2. Rights of Transferred Administrator(s).

The transferred administrator shall continue as a member of the faculty with all rights and privileges of the faculty of the System institution or unit to which the administrator is

transferred. Except as may be provided in the transfer plan regarding annual leave, employee sick and annual leave shall transfer with the administrator to the new institution or unit. Before the date of transfer, DRI employees shall have the right to make a written request for payment of a portion of sick leave and/or sell back of a portion of annual leave in accordance with DRI Bylaws, Chapter 1, Sections 10.1 and 10.3. The rights provided to DRI employees under DRI Bylaws, Chapter 10, Sections 10.1 and 10.3 do not transfer with the employee to the new institution or unit. For the purposes of contract renewals and other notices, the employee will retain his or her original NSHE hire date.

3. Geographic Limitations on Transfer.

Administrators shall not be transferred between northern institutions or northern offices (including but not limited to UNR, WNC, TMCC, GBC, DRI-north, System Administration/SCS -North) and southern institutions or southern offices (including but not limited to UNLV, NSC, CSN, DRI-south, System Administration/SCS-South), and between GBC and Reno/Carson City (UNR, WNC, TMCC and DRI-north, System Administration/SCS-North) institutions without the agreement of the employee. If an employee consents to transfer between northern and southern institutions, or GBC and Reno/Carson City institutions, moving expenses shall be provided in accordance with state law.

4. Miscellaneous.

Nothing in this section shall be interpreted as abrogating the notice of nonreappointment provisions of Sections 5.4.2, 5.8.2, 5.9.1, 5.9.2, 5.9.3, 5.9.4 and 5.9.6 of the NSHE Code. The decision of the Chancellor to transfer an administrator in accordance with this section is not subject to appeal. The transfer of an administrator in accordance with this section is not subject to statement of reasons, reconsideration or grievance under Sections 5.2.3, 5.2.4 and 5.7, respectively, of the NSHE Code.