

**BOARD OF REGENTS  
BRIEFING PAPER**

**1. Agenda Item Title: Amending the TMCC NFA Contract to establish a uniform grievance procedure for disagreements affecting merit pay award.**

**Meeting Date: June 5-6, 2014**

**2. BACKGROUND & POLICY CONTEXT OF ISSUE:**

Currently, there is a grievance procedure applying to evaluations of faculty within the TMCC NFA bargaining unit contained in Article 13 of the TMCC NFA Contract. There is a different grievance procedure applying to faculty who are not within the bargaining unit which is contained in the TMCC Bylaws. TMCC Faculty Senate and Administration have prepared an amendment to the TMCC bylaws regarding disagreements in the faculty evaluations affecting the award of merit pay as required by NSHE Handbook, Title 2, Chapter 5, Section 5.16. To assure that the same procedure applies to all faculty, the TMCC administration and the NFA ask that the current TMCC/NFA Contract be amended to insert the same grievance procedure that will be in Section IV.J. of the TMCC bylaws will be in the NFA contract.

**3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

Amend the TMCC NFA contract adopting the grievance procedure that will be included in the TMCC Bylaws, Article IV, Section J, into the existing TMCC NFA contract.

**4. IMPETUS (WHY NOW?):**

The TMCC Faculty Senate and TMCC administration have agreed upon an amendment to the TMCC Bylaws establishing a new procedure for grieving disagreements with evaluation ratings. The TMCC administration and TMCC NFA Chapter want that same procedure to apply to faculty for grievances affecting evaluations and resulting merit pay decisions.

**5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

The adoption of one procedure for all grievances affecting evaluations for all faculty will streamline the evaluation grievance process for TMCC.

**6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

None

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

Leave Article 13 of the TMCC NFA contract as it is and have two grievance procedures for evaluation decisions which affect merit pay.

**8. COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title # 2 Chapter # 5 Section # 5.16
- Amends Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Amends Current Procedures & Guidelines Manual: Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Other: \_\_\_\_\_
- Fiscal Impact: Yes \_\_\_\_\_ No \_\_\_\_\_  
Explain: \_\_\_\_\_

The Board of Regents of the Nevada System of Higher Education acting on its behalf and on behalf of Truckee Meadows Community College and the Truckee Meadows Community College and the Nevada Faculty Alliance hereby amend Article 13 of the 2012-2015 NFA contract (deletions are in ~~strike out~~ and additions are in **bold and underlined**):

### **Article 13** **Grievances Regarding Annual Performance Evaluations**

Disagreements concerning job performance of full-time faculty covered by this Agreement should be resolved in a timely manner and as close to the perceived problem as possible.

~~Tenured faculty and Tenure track~~ **All faculty eligible for merit awards as defined in the TMCC bylaws, section J, may grieve the any overall evaluation rating from their annual evaluation level less than excellent.** A faculty member who seeks to grieve an annual performance evaluation shall proceed as follows:

1. Meeting with Evaluator: The faculty member shall seek a meeting with his/her evaluator, for the purpose of discussing the evaluation. For academic faculty the evaluator shall be a Dean or Director. For administrative faculty the evaluator shall be the supervisor. The faculty member shall contact the evaluator to request such a meeting within ten (10) working days of the receipt of the evaluation report. The faculty member may be accompanied by a TMCC-NFA representative if the faculty member so chooses. The faculty member shall notify the evaluator at the time the meeting is set if he/she will be accompanied by a TMCC-NFA representative. The evaluator may then choose to be accompanied by an administrative representative. Otherwise the meeting shall be limited to the faculty member and the evaluator. All participants at the meetings or hearings must comply with confidentiality requirements related to personnel matters. The

evaluator shall issue a written determination within ten (10) working days of the meeting. Such a determination shall state if the prior annual performance evaluation shall be maintained or modified/replaced. A copy of said determination shall be given to the faculty member in a timely manner.

2. ~~Written Statement to Evaluator~~ **Merit Award Appeals Committee (MAAC)**: If the faculty member is not satisfied with the results of the meeting with the evaluator, the faculty member may choose to submit a written statement to the ~~evaluator~~ **MAAC** clearly outlining the portions of the written evaluation they disagree with and the reasons for the disagreement. This statement shall be submitted within ten (10) working days of receipt by the faculty member of the written determination statement. The statement shall be attached to the faculty member's written performance evaluation and become a permanent part thereof.

**3. Appeal to Merit Award Appeals Committee: The written statements of the evaluator and the faculty member shall be reviewed by the MAAC. There shall be an academic MAAC and an administrative MAAC, to review evaluations of the respective faculty. The Merit Award Appeals Committees shall be comprised of three (3) faculty members appointed by the Faculty Senate, and cannot include the affected faculty member. The academic MAAC shall have at least two academic faculty members, and the administrative MAAC shall have at least two administrative faculty members. The MAAC shall review cases and issue a written statement within ten (10) working days of the faculty member's request.**

**The written statements produced by the evaluator, the faculty member and the MAAC will be reviewed by the appropriate Vice President or senior staff member in a timely manner. For academic faculty the Vice President of Academic Affairs shall be the reviewer. For administrative faculty the appropriate senior staff member as determined by the president**

**shall be the reviewer. The decision from the reviewer shall be final and cannot be further appealed and shall become a part of the evaluation documentation.**

**The appeals process shall be finalized by June 26<sup>th</sup> of the year in which the associated merit award is being distributed.**

~~3. Appeal to Evaluator's Supervisor: In lieu of the attachment to the evaluation described in paragraph 13.2, the faculty member may choose to appeal the evaluation to the evaluator's supervisor. The faculty member shall submit the appeal to the evaluator's supervisor within ten (10) working days of receipt by the faculty member of the written determination statement. Although there is no form the appeal must take, it must be written and must clearly outline the portions of the written evaluation he/she disagrees with and the reasons for the disagreement. The evaluator and the evaluator's supervisor and the faculty member shall meet within ten (10) working days of the faculty member's submission of the appeal or at a time that is mutually agreeable if schedules do not allow a meeting within ten (10) working days. The faculty member shall notify the evaluator's supervisor at the time the meeting is set if he/she will be accompanied by a TMCC NFA representative. The evaluator's supervisor may then choose to be accompanied by an administrative representative. The evaluator's supervisor will issue an appeal decision to revise or uphold the original evaluation based on his/her reading of the evidence within ten (10) working days of the meeting. Both the faculty member's original appeal and the subsequent decisions of any appeal shall be attached to the original performance evaluation.~~

~~4. Appeal to Vice President: If the appeal in 13.3 was not to the appropriate Vice President, and if the faculty member is still not content, he/she may appeal to the~~

~~appropriate Vice President over his/her area within the College. In such a case the procedure used in 13.1.3 shall be repeated, substituting the appropriate Vice President for the evaluator's supervisor. This section shall not entitle a faculty member to a second hearing to a Vice President if he/she was the supervisor in 13.1. The results of the Vice President's review shall be final and shall become part of the evaluation documentation.~~

Signatures of Amendment

For the TMCC-NFA

TMCC President

\_\_\_\_\_  
Dr. Julia Hammett

\_\_\_\_\_  
Dr. Maria Sheehan

Date: \_\_\_\_\_

Date: \_\_\_\_\_