

BOARD OF REGENTS
BRIEFING PAPER

Agenda Item Title: Proposed Amendments of Title 2, Chapter 5, adding a new Section 5.9.6 Regarding Shortened Notice of Termination for Administrative Faculty Hired after December 15, 2015, Except DRI

Meeting Date: December 3-4, 2015

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

Current Board Code provisions in Sections 5.9.1 and 5.9.3 provide notice of termination periods for administrative faculty of up to a full fiscal year or more, depending on when the notice is given. These lengthy notice periods are inefficient, costly and inconsistent with common business practices. The NSHE presidents have recommended shortening these notice periods.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

It is recommended that the Board approve the amendment to add a new Section 5.9.6, to provide shortened notice of termination for administrative faculty hired after December 15, 2015. The proposed notice periods are 30 calendar days in the first year of service and 60 calendar days in the second and subsequent years. The proposed amendments also provide for payment of the total amount due in lieu of notice (“severance pay”) with a minimum of 30 calendar days notice, and require that a statement of reasons in accordance with the Code, Title 2, Chapter 5, Section 5.2.3 be given contemporaneously with the notice.

The proposed amendment does not apply to DRI. Appropriate cross-references must be added to Sections 5.9.1, 5.9.2, 5.9.3, 5.9.4 and 5.9.5.

4. IMPETUS (WHY NOW?):

The presidents have recommended that the notice of termination periods be shortened.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The proposed Code amendments have been revised after receiving input received from NSHE constituents including Business Officers, Faculty Senate Chairs and others.
- The Board Chair has directed that this revised proposal be submitted to the Board for its consideration.
- The proposal has been revised:
 - To lengthen the notice period in the second and subsequent years to 60 calendar days.
 - To require that a statement of reasons in compliance with the Code, Title 2, Chapter 5, Section 5.2.3, must accompany the notice of termination.
 - To provide that employees may be given severance pay in lieu of notice with at least 30 calendar days notice.
 - To clarify that a notice of termination under this section, like all notices of termination or nonreappointment, is not subject to a grievance.
- The notice periods will provide sufficient time for employees to seek reconsideration of the action in accordance with the Code, Title 2, Chapter 5, Section 5.2.4.
- In accordance with Section 5.2.4, an employee has 15 calendar days after receipt

of the written notice of termination to request reconsideration.

- The current notice of termination time periods provide up to a full year of notice or even more depending on when the notice is given.
- The lengthy notice periods are costly and inefficient.
- Notice of termination provisions at other colleges and universities vary widely from as little as no notice being given to as much as a year or more in some cases.
- Employees who have been given notice of termination are likely not to be as effective during the notice time period.
- Reorganizations to achieve efficiencies often must be delayed during the notice periods.
- These lengthy notice periods are out of step with common business practices.
- The change will be applied prospectively in keeping with past practice.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- Shortened notices of termination for administrative faculty will make recruiting more difficult.
- The longer notices of termination are one of the few benefits that can be offered to new administrative faculty.

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

- Do not consider shortening the time periods for notice of termination for new administrative faculty.

8. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
X Amends Current Board Policy: Title # 2 Chapter # 5, add a new Section # 5.9.6 and appropriate cross-references in Sections 5.9.1, 5.9.2, 5.9.3, 5.9.4 and 5.9.5
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
-
- Other: _____
- Fiscal Impact: Yes ___ No X

**PROPOSED REVISIONS – Board of Regents CODE
TITLE 2, CHAPTER 5,
Amendment to SECTIONS 5.9.1, 5.9.2, 5.9.3, 5.9.4 and 5.9.5
and**

***New SECTION 5.9.6 Notice of Termination for Administrative Faculty hired on or after
December 15, 2015, Except DRI***

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

5.9.1 Minimum Notice of Nonreappointment for Nontenured Academic and Administrative Faculty. Except as provided in Subsections 5.4.2, 5.9.2, 5.9.3, [~~and~~] 5.9.4 ***and 5.9.6*** of the NSHE Code, and unless provided otherwise in an employment contract, notice of nonreappointment to employment of nontenured academic faculty and administrative faculty hired before March 1, 2005, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the College of Southern Nevada, Great Basin College, Western Nevada College, Truckee Meadows Community College and the special units shall be given:

...

5.9.2 Shortened Notice of Nonreappointment for Nontenured Academic and Administrative Faculty for Financial Exigency.

...

(c) Nothing herein shall prevent the System institutions from not reappointing nontenured academic or administrative faculty members at the end of the term of their employment contracts because of financial reasons without a declaration of financial exigency by the Board of Regents under Subsection 5.4.5 of the NSHE Code if the notice of nonreappointment provided by Subsections 5.4.2, 5.8.2, [~~or~~] 5.9.1, ***5.9.2, 5.9.3, 5.9.4 or 5.9.6*** of the NSHE Code is given.

5.9.3 Notice of Termination for Nontenured Academic and Administrative Faculty hired on or after March 1, 2005, Except DRI

Except as provided in Subsections 5.4.2, ***5.9.1***, 5.9.2, [~~and~~] 5.9.4, ***and 5.9.6*** of the NSHE Code, and unless otherwise provided in the contract of employment, nontenured academic and administrative faculty hired on or after March 1, 2005, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the College of Southern Nevada, Great Basin College, Western Nevada College, Truckee Meadows Community College and the special units may be given notice of termination by the appointing authority at any time after the commencement of employment. Such (non-reappointment) termination notice:

...

5.9.4 Notice of Termination for Non-Tenured Administrative Faculty at the rank of Dean or above hired on or after March 1, 2005, Except DRI

Except as provided in Subsections 5.4.2, ***5.9.1***, 5.9.2, [~~and~~] 5.9.3, ***and 5.9.6*** of the NSHE Code, and unless otherwise provided in the contract of employment, non-tenured administrators of the rank of dean or higher to include those who directly report to the Provost or President, hired on or after March 1, 2005, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the Community College of Southern Nevada, Great Basin College, Western Nevada Community College, Truckee Meadows Community College and the special units may be given a notice of termination by the appointing authority at any time after the commencement of employment. Such notice of termination shall be given:

...

5.9.5 Effective Date of a Notice of Non-Reappointment or Notice of Termination

The effective date of a Notice of Nonreappointment under Subsections 5.9.1 and 5.9.2, or a Notice of Termination under Subsections 5.9.3, ~~and~~ 5.9.4, **and 5.9.6** is the date of delivery if hand-delivered, or if mailed, the date of mailing. Notices are deemed received on the date the notice is hand-delivered or the date the notice is mailed.

5.9.6 Notice of Termination for Administrative Faculty hired on or after December 15, 2015, Except DRI

Except as provided in Subsections 5.4.2, 5.9.1, 5.9.2, 5.9.3 and 5.9.4 of the NSHE Code, and unless otherwise provided in the contract of employment, administrative faculty hired on or after December 15, 2015, at the University of Nevada, Reno, the University of Nevada, Las Vegas, Nevada State College, Henderson, the College of Southern Nevada, Great Basin College, Western Nevada College, Truckee Meadows Community College and the special units may be given notice of termination by the appointing authority at any time after the commencement of employment.

- (a) The termination notice must be accompanied by a statement of reasons in accordance with the Code, Title 2, Chapter 5, Section 5.2.3. Such termination notice and statement of reasons:***
 - i. If in the first calendar or fiscal year of service shall be given at least 30 calendar days in advance of date of termination;***
 - ii. If in the second and subsequent calendar or fiscal years of service shall be given at least 60 calendar days in advance of date of termination.***
- (b) For employment contracts of less than one calendar or fiscal year's duration, notice must be given for a period of time which may be mutually agreed upon by the parties to such employment contracts, but, in all events, shall be given no less than 14 calendar days in advance of the termination of such contracts.***
- (c) At the discretion of the appointing authority, the administrative faculty member may be granted pay in lieu of notice. However, the employee must be given a minimum of 30 calendar days written notice of the intent to give pay in lieu of notice.***
- (d) The contract of employment of a nontenured administrative faculty member is terminated at the expiration of the appropriate notice period whether or not the notice period ends during the fiscal year the notice is given, or as of the date payment in lieu of notice is made.***
- (e) A decision to issue a notice of termination and/or pay in lieu of notice under this section is not subject to review by grievance procedures established in accordance with Section 5.7 of the NSHE Code.***

**Length of Time Required to Give Notice of Nonrenewal
November 2, 2015**

Institution	Category of Employee*	Length of Service**	Length of Notice***
University of Arkansas System—including community colleges	Staff employees		30 days written notice
U/Alaska System	Officers of the university and senior administrators		At least 3 months prior to the effective date
Arizona State	Administrative	1 fiscal year	90 days
	Academic professional	1 year	90 days
U/Arizona	Continuing-eligible professional	Year-to-year	If funded by state appropriations, 90 days If non-state funded, 30 days
U/No. Arizona	Service professional	Year to year	At least 90 days
Pima Community College-Arizona	Administrative professional		Notice given on February 15 for fiscal year contracts
Bentley University	All employees below executive director; not tenured faculty	Every year of service	2 weeks per year up to a maximum of 52 weeks
Boise State	Professional staff		At least 60 days
	Coaches & ass't Employees paid from grants or sponsored projects		At least 30 days
U/California-Office of the President	Professional and support staff (PPSM-64)		15 calendar days or pay in lieu of notice
	Managers and senior professionals (PPSM 65)		60 calendar days or pay in lieu of notice (Chancellor also has discretion to grant severance pay of up to 1 month for each year of service—max. 6 months)
California State University	Administrative	2 year probationary period	First year—15 days >1 year ≤ 18 months—30 days >18 months ≤ 2 years—45 days
College of the Desert-California	Administrators	If contract > 1 year All others	Notice of non-reappointment—6 months Notice given by March 15
U/Cambridge		<1 year ≥ year <5 years ≥5 years <9 years	1 week 4 weeks 8 weeks

		≥9 years	12 weeks
U/Central Florida	Non-unit faculty, administrative and professional staff	Up to 6 months	2 weeks
		At least 6 months but fewer than 12	2 months
		At least 12 months but fewer than 24	3 months
		2 or more years	6 months
Florida Gateway College	Career service employees	After serving 6 month probation	2 weeks
U/Connecticut	Academic ass't, extension professor, associate extension professor, ass't extension professor, extension instructor, lecturer, coach, trainer, specialist I-IV, all in residence faculty	probationary	1 month
		1 year	3 months
		2-5 years	6 months
		Multi-year contract	10 months
Cornell	Academic staff other than lecturers and senior lecturers	1-3 years	3 months
		3+ years	3 month minimum +for each year of service beyond 3 years, an additional month added to minimum, up to 6 months maximum
	Lecturers and senior lecturers	Less than 2 years	3 months
		At least two 2 years	1 semester
		3+ years	2 semesters
	Term appointments	1-3 years	At least 3 months
		3+ years	For each year of service beyond 3 years, an additional month added to minimum, up to 6 months maximum
Dartmouth	Regular Employees: Layoff—reorganization,	Lump sum payment:	Min. 4 weeks notice plus

	budget reduction, lack of work	For each full year continuous service	Min. 2 weeks-Max. 26 weeks
Florida State U.	Non-faculty unit	Initial contract year (i.e., for 9-month faculty, from August to May or, for 12-month faculty, from July to June)	3 months
		Second contractual year of university service	6 months
		Third contractual year of university service or beyond	1 year
Florida State U. (cont'd)		In the first two contractual years of multi-year contract	19.5 weeks (one full semester)
		Third and succeeding contractual years of continuous service	1 year
U/Central Florida	Non-unit Faculty and Administrative and Professional Staff Member	< 6 months 6 months < 12 months 12 months < 24 months 2 + years	2 weeks 2 months 3 months 6 months
U/South Florida	Administration employees	Per contract or: < 2 years ≥ 2 years Executive service	30 days 3 months 60 days
U/Georgia	Professor, Ass't or Associate professor	First one year standard nonrenewable contract	At least 3 months
		Second one year standard nonrenewable contract	At least 6 months
		After two or more years under a one year standard nonrenewable contract	At least 9 months
		Three or five year renewable contract	At least 9 months
Harvard/U	Non-teaching exempt staff	0 to 7 years 7-15 years 15 or more years	1 week per year 1.5 weeks per year 2 weeks per year

U/Idaho	Non-tenured faculty and exempt employees	First full academic year of service Second full academic year of service Subsequent years	No later than March 1 or minimum of 3 months No later than December 15 or minimum of 6 months No later than July 15 or minimum of 12 months
Idaho State	Non-classified		At least 60 days
	Non-tenured faculty	1 year	Not later than March 1 of the 1 st full academic year of service if the appointment is not to be renewed at the end of the academic year; or if the appointment expires during an academic year, at least 3 months
		2 years	Not later than December 15 of the academic year at the end of which the appointment is to be terminated; or if the appointment terminates during an academic year, at least 1 year
		3 years	Not later than July 15 of the 2 nd full academic year of service if the appointment is not to be renewed at the end of the academic year; or if the appointment expires during an academic year, at least 6 months
Illinois State U	Administrative/Professional	< 1 year 1 year < 3 years 3 +	3 months 6 months 12 months
Cook County Community College-Illinois	Administrators, employees in confidential, supervisory or management capacity		At will, subject to Board ratification
James Madison	Tenure-track faculty	1 year	Not later than March 1 if appointment expires at end of spring semester; at least 3 months otherwise
		2 years	Not later than December 15 if appointment expires at end of spring semester; at least 6 months otherwise
		2+ years	Not less than 1 year for any reason ; not less than 2 years if nonrenewal is for any reason other than unsatisfactory performance
U/Kansas	Unclassified professional	First 3 years >3 years	May 17-nonrenewal for next fiscal year or no less than 30 days before end; Mach 30-nonrenewal for next fiscal year or no less than 90 days before end
Labette Community	Administrators and Professional Staff		Notified of termination by March 15

College-Kansas			
U/Louisiana System	Unclassified administrative personnel		At will
U/Maine	At-will non-represented employees	<p><u>Tier 1 (hired before 7/1/1995):</u> During probation Less than 4 years after probation 4 years<7 years 7years></p> <p><u>Tier 2 (hired between 7/1/95-6/30/2005)</u> During probation Less than 4 years after probation 4 years< 7 years 7 years ></p> <p><u>Tier 3 (hired after 7/1/2005):</u> During probation Less than 4 years after probation 4 years<7 years 7 years></p>	<p>Not specified Not specified</p> <p>4 months 6 months</p> <p>½ month 1 month</p> <p>3 months 3 months</p> <p>½ month ½ month</p> <p>1 month 2 months</p>
U/Mass. Dartmouth	Non-unit professionals	<p>General rule</p> <p>≥ 3 months < 2 years At discretion of president or chancellor-notice period reduced</p>	<p>1 calendar month notice for ea. complete year service, subject to availability of funds, max. of 12 months; or 1 month's notice, subject to availability of funds; or 1 week's salary for every week by which notice is foreshortened.</p>
Middlesex Community College-Massachusetts	Professional employees		<p>First 12 months-no notice Second year—one month Third year—two months Fourth year—three months Fifth and subsequent years—six months</p>

			or in president's sole discretion—lump sum payment
U/Maryland	Tenure-track faculty	1 year	End of fiscal year with notice by March 1
		2 years	December 15 of 2 nd year
		3+	1 year
Mass. Inst. Technology	Administrative staff-lay off for lack of work or funds	0-1 year	2 months
		1-5 years	3 months
		5 years or more	3 months + 1 additional week for ea. year of service
U/Minnesota	Academic professional/administrative	1 year	One month
		2-5 years	3 months
		6-10 years	6 months
		11+ years	1 year
	Probationary professional	1 year	On or before March 1, effective at end of current contract year
		2+ years	On or before May 15, effective at end of following contract year
U/Montana	Contract administrator and professional	1 year	30 days
		2 years	3 months
		3+ years	5 months
Montana State	Tenurable appointee with probationary status	1 year	March 1st
		2 years	December 15
		3+ years	June 30
	Tenured faculty	Termination for financial exigency or discontinuance of program	1 year
	Professional and administrative	1 year	30 days
		2 years	3 months
		3+ years	5 months
U/Nebraska-Lincoln	Managerial/Professional		Per contract or no less than 90 days
U/New Hampshire	Professional, administrative/technical staff—termination for position based reasons (lack of funding, program		Minimum of 90 days

	curtailment, change in mission)		
N/Dakota State	Probationary faculty member	1 year	At least 90 days
		2 years	At least 180 days
		2+ years	At least 1 year
	Tenured faculty terminated for financial exigency		At least 1 year
New Mexico State	Regular Faculty non tenure track	During first year of service in regular status (9 or 12 month basis)	3 months before end of academic year (9 month employees) or the fiscal year (12 month employees)
		After first year of service	6 months before end of academic year (9 month employees) or fiscal year (12 month employees)
U/North Carolina	Senior Academic and Administrative Officers— Tier II	First year of service Second and third years of service Fourth and subsequent years	30 days notice or severance pay* 60 days notice or severance pay* 90 days notice or severance pay* *or a combination of notice and severance pay to total the required number of days
Northern Ill. University	Supportive Professional Staff	≤ 1 year > 1 year < 3 years 3 years or more	4 months, not before end of contract period except for cause 6 months, not before end of contract period except for cause 12 months from date of notice, except for cause
Ohio/U	Administrative employee		No later than April 1 to terminate at end of fiscal year
U/Oregon	Officer of administration	First year of employment Second year of employment Subsequent years	3 months 6 months 12 months
U/Penn.	Staff positions—reduction in workforce	Pay Continuation if Release signed: After probation served 2 years Over 2 years	Not less than 30 days 4 weeks + 1 week for each year of service 4 weeks + 2 weeks for each year of service, not to exceed 52 weeks
Purdue	Nontenured eligible for	1 year	3 months

	tenure		
		2 years	6 months
		3+ years	1 year
	Nontenured NOT eligible for tenure	For any given year	One month for each year of continuous service to a maximum of 1 year
U/Texas	Nontenured Faculty	First academic year of probationary service	Not later than March 1 of 1 st academic year of probationary service if appointment expires at end of that academic year, or not later than December 15 of 2 nd academic year of probationary service if appointment expires at end of that academic year.
		After 2 or more academic years	Not later than 30 days prior to end of then current academic year
	Faculty on Term Tenure	Faculty member serving 7-year term appointment	Not later than 30 days prior to end of sixth academic year of such appointment period that subsequent academic year will be terminal year of employment
Tufts	Full time faculty not involving permanent or continuous tenure	1 year	Not later than March 1 of 1 st academic year of service if appointment terminates at end of that year; or, if an initial 1 year appointment terminates during academic year, not later than 3 months prior to termination
		2 years	Not later than December 15 of the 2 nd academic year of service if appointment terminates at the end of that year; or, if an initial 2 year appointment terminates during academic year, not later than 6 months prior to termination
		2+ years	1 year
U/Utah	Regular faculty holding appointment w/o tenure	1 year	3 months
		2+ years	1 year
	Auxiliary instructional full-time faculty	continuously for 3 or more years	3 months
Virginia Tech	Administrative and Professional Faculty-regular appointments	First year > 1 year < 2 years ≥ 2 years	3 months before end of initial year contract 6 months 12 months
U/Wis.-Platteville	Fixed term staff members	First 2 years >2 years ≤ 5 years > 5 years	3 months 6 months 12 months

**“Category of Employee” varies by institution; some only have information on one category, such as administrative, while others cover several types, including faculty.

**“Length of Service” can be the employment term specified in the contract of hire or the length of time actually served at the institution.

***“Length of Notice” may vary at the same institution depending on the category of employee and/or the length of the contract or the actual service.

Community college information is in blue font.