

BOARD OF REGENTS
BRIEFING PAPER

1. Agenda Item Title: Review of current Board policy authorizing institution presidents to approve employment agreements for athletic department personnel – including head athletic coaches and athletic directors.
- Meeting Date: February 23, 2017 meeting of the Committee on Athletics

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

In September of 2016 the Board approved a new policy authorizing institution presidents to approve all employment agreements for athletic personnel – including head athletic coaches and athletics directors. That policy is codified in Title 4, Chapter 24, Section 1, Subsection 10 of the *Handbook*, a copy of which is attached as **Exhibit A**. Under the policy, the institutions must utilize the employment agreement template approved for the position for which they are hiring - and must make note of any deviations from the template in the applicable checklist. In addition, the institutions are required to provide certain certifications and disclosures - including a Contract Certification, a Funds Disclosure, and a Diversity Report.

Since the Board approved the new policy – the institutions have executed several new or amended employment agreements subject to the policy. Some questions have arisen about the new policy, including: (i) whether the new policy is applicable to assistant coaches, and (ii) what information must be included in the certifications and disclosures.

This agenda item will serve as an opportunity for the Committee to review the policy, discuss various issues and questions related to the policy, and provide System and institution staff direction about the policy. The Committee may also make suggestions for revisions to the policy that could be brought forward for approval at a future meeting.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

That the Committee review the current policy authorizing institution presidents to approve all employment agreements for athletic personnel (including head athletic coaches and athletics directors) set forth in Title 4, Chapter 24, Section 1, Subsection 10 of the *Handbook*. The Committee may discuss various issues and questions that have arisen related to the policy and may provide System and institution staff direction concerning the policy. The Committee may also propose revisions to the policy that could be brought forward for approval at a future meeting.

4. IMPETUS (WHY NOW?):

In September of 2016 the Board approved a new policy authorizing institution presidents to approve all employment agreements for athletic personnel – including head athletic coaches and athletic directors. Since then, the institutions have executed several employment agreements or amendments subject to the policy. Questions have arisen about the scope and applicability of the policy.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- A policy authoring institution presidents to approval all employment agreements for athletic personnel – including head athletic coaches and athletic directors was recently approved by the Board.
- It is appropriate to periodically review the policy to determine whether any changes or revisions are needed to ensure that the policy is fulfilling its intent.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

The policy was approved by the Board in September of 2016. More time is needed to determine whether any changes or revisions to the policy are needed and this agenda item is premature.

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

Take no action or provide other direction to System and institutional staff.

8. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title #____ Chapter #____ Section #____
- Amends Current Board Policy: Title #____ Chapter #____ Section #____
- Amends Current Procedures & Guidelines Manual: Chapter #____ Section #____
- Other: Review of current Board policy – Title 4, Chapter 24, Section 1, Subsection 10 of the Handbook.
- Fiscal Impact: Yes____ No
Explain:_____

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. **Certifications and Disclosures.** 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").

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.

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").

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 within thirty (30) days after the execution of any employment contract for an athletic director or any athletic coach that exceeds the AD Threshold. The President shall be held personally responsible by the Board of Regents regarding the Contract Certification, Funds Disclosure, and the Diversity Report, and any failure to comply shall be cause for disciplinary action against the President.

- d. Form of Employment Contract. In negotiating any employment contract for an athletic director or athletic coach, 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, provide a copy of the contract checklist to the Chancellor and Chief of Staff of the Board of Regents.
- e. 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 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.
- f. 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.

(B/R 9/16)

Section 2. Intercollegiate Athletics Trade-Out Policy

1. UNLV

- a. A trade-out is defined as an agreement between the Department of Intercollegiate Athletics and an individual, business or corporation for goods and/or services in return for something of value from the department, including for example advertising, club memberships, sponsorships, tickets to athletic events, etc.
- b. The director of the Department of Intercollegiate Athletics must approve all trade-outs.