

Amended Proposals to Amend the NSHE Code:

Recommendation #1: Section 6.11.3 should be amended as follows to allow the faculty senate to follow established selection procedures in selecting a special hearing committee. Also, move the last sentences of (a) to its own subsection.

6.11.3 Appointment of the Special Hearing Committee.

- (a) The faculty senate of each System institution shall select a faculty hearing pool. ~~A faculty hearing panel,~~ composed of at least fifteen faculty members, ~~shall be selected by the faculty senate of each System institution.~~ to serve on special hearing committees, and institutions shall establish selection procedures in their institutional bylaws. Both academic and administrative faculty ~~and administrators~~ shall be eligible to serve. The members of the faculty ~~hearing panel~~ pool shall serve one-year terms and upon agreeing to serve shall commit themselves in writing to serve on a special hearing committee when needed. ~~System institution administrators are obligated by the provisions of this subsection to grant special hearing committee members administrative leave or other assistance necessary to enable them to fulfill their responsibilities as members of special hearing committees. This might require providing teaching assistance from classes or other administrative relief from assigned duties.~~
- (b) Except as provided in subparagraph (c) below, within 5 college working days after receipt from the president of notice of the president's decision to hold a hearing under Section 6.12 of the Nevada System of Higher Education Code, the faculty senate chair shall select the names of nine persons from among the faculty hearing ~~panel~~ pool to serve on a special hearing committee, the selection to be made by lot, ~~to serve on a special hearing committee and the faculty senate chair,~~ within subject to the established selection procedures. Within the above-referenced time period, the faculty senate chair shall inform the person charged and the administrative officer of the names of the persons selected.
- (c) If a hearing is to be held on a charge or charges of sexual harassment under Subsection 6.2.2(p) of the Nevada System of Higher Education Code and if a student or graduate student is involved in the charge as an alleged victim, within 5 college working days after receipt of notice of the president's decision to hold a hearing under Section 6.8.3 of the Nevada System of Higher Education Code, the faculty senate chair shall select the names of eight persons from among the faculty hearing ~~panel~~ pool, the selection to be made by lot subject to the established selection procedures, and the appropriate student government president shall nominate three students, to serve on a special hearing committee and the faculty senate chair and the appropriate student government president, within the above-referenced time period, shall inform the person charged and the administrative officer of the names of the persons selected or nominated.
- (d) System institution administrators are obligated by the provisions of this subsection to grant special hearing committee members administrative leave or other assistance necessary to enable them to fulfill their responsibilities as members of special hearing committees. This might require providing teaching assistance for classes or other administrative relief from assigned duties.

Rationale: The faculty senate currently has a process in UNR Bylaws for grievances, which excludes, for example, faculty from the same department or those with less than five years at UNR. Its default is to have only academic faculty serve on an academic faculty member's grievance, and only administrative faculty serve on an administrative faculty member's grievance, unless all parties agree otherwise. Code should be modified to allow institutions to put their own processes into their bylaws, so we can apply the grievance standards to Chapter 6 special hearing committees.

Recommendation #2: Any references to the “University of Nevada” should be updated.

For example:

3.4.4 Notice of Tenure. When a member of the academic faculty has been granted appointment with tenure, the academic faculty member shall be informed immediately by the president in writing. Any defect in the notice or any misstatement of the Board of Regents' actions shall not create any enforceable legal obligations against, or on the part of, the ~~University of~~ Nevada [System of Higher Education](#).

Recommendation #3: Amend Section 5.2.2 as follows.

5.2.2 Final Approval. The president must approve all recommendations concerning appointments to employment, nonreappointment to employment of nontenured faculty members, salary, promotion, or appointment with tenure within the president's System institution. However, an appointment with tenure shall also require, before becoming effective, the approval of the Board of Regents. ~~The president must provide 5 working days notice to the institutional faculty senate prior to approving a promotion to the position of Associate Professor (Rank III) or Professor (Rank IV). (B/R 4/99)~~ In accordance with the requirements of NRS 281.210, employees who are related to the institution president within the third degree of consanguinity or affinity must be appointed by the Board of Regents.

Rationale: This practice of informing senates is not followed, and is not necessary. The intent is met through the state's Open Meeting Law, which requires agenda to be posted for the public.

Recommendation #4: Amend Section 3.2.3 as follows to eliminate redundant sentence, since sections 3.2.3(a) and (c) say the same thing.

3.2.3 Rank O.

- (a) Faculty placed in Rank O positions shall not be eligible for appointment with, nor shall have, tenure under any circumstances. A faculty member must agree to placement in a Rank O position.
- (b) Upon the request of the academic faculty member and the approval of the president, up to three years of uninterrupted full-time employment in a Rank O position may be counted towards completion of a probationary period for tenure in the event an academic faculty member employed in a Rank O position is subsequently appointed to a rank capable of conferring eligibility for appointment with tenure. Such decision must be made at the time of the subsequent appointment.
- (c) Academic faculty at the University of Nevada, Reno and the University of Nevada, Las Vegas who have been placed in Rank O positions may be given such academic titles as the member institution, at the president's discretion, may consider appropriate, ~~but such academic faculty shall not be eligible for appointment with, nor shall have, tenure under any circumstances by reason of the granting of such academic titles.~~

Recommendation #5: Amend Section 3.3.2 as follows to eliminate redundant phrase.

3.3.2 **Consideration for Tenure during Probation.** Upon the request of the academic faculty member ~~and the approval of the president~~, academic faculty eligible for appointment with tenure may be considered for such appointment at the appropriate time during each year of employment during the probationary period. Member institutions shall make no provisions requiring members of the eligible academic faculty to be considered for appointment with tenure at any time prior to the next to the last year of the probationary period.

Rationale: In Section 3.3.2, approval by the President is implied before a faculty member can even be considered for early tenure. This is clearly inappropriate, and was probably intended to refer to the fact that the President must approve the application before it goes to the Board of Regents, which is already stated in Section 5.2.2 (see #4 above).

Recommendation #6: Amend Section 5.7.2 to correctly define a grievance.

Code confuses a grievance with a grievable act, and should be changed as follows:

5.7.2 Scope of Grievance Procedures. A grievance is [an objection to](#) an act or omission to act by the respective administrations of the System institutions, allegedly resulting in an adverse impact on the employment conditions of a faculty member relating to promotion, appointment with tenure or other aspects of contractual status, or relating to alleged violations of the Nevada System of Higher Education Code or institutional bylaws.

Recommendation #7: Revise 5.2.4 to:

- (a) Allow optional reconsideration on personnel matters other than tenure, promotion, or non-reappointment (section 5.2.4), or denial of salary increase (5.16);
- (b) Allow the option of having the Provost make the final decision on all reconsiderations;
- (c) Delete the redundant section on Regents' approval.

5.2.4 Reconsideration of Personnel Action ~~Denying Appointment with Tenure, Promotion or Reappointment.~~ Within 15 calendar days after receipt of the written reasons for denial of appointment with tenure, promotion or reappointment to employment, or for the issuance of a notice of termination, a faculty member may request reconsideration. The request shall be submitted in writing to the faculty member's department chair, supervisor, or dean who rendered the negative decision together with the reasons, arguments and documentation supporting the request for reconsideration. The request for reconsideration shall be promptly directed through regular administrative channels with recommendations for or against reconsideration of the decision. Final action shall be taken within a reasonable time by the president [or provost](#) after receipt of the recommendations, ~~except that if the president, after reconsideration, decides to recommend appointment with tenure should be granted, the final decision must be made by the Board of Regents.~~ [Institutions may also establish in their bylaws the option of requesting reconsideration on other personnel matters, unless specifically prohibited by the Code. Any matter that can be grieved should first allow the option of reconsideration.](#)

Rationale:

- (a) Because of its placement in these sections, the reconsideration process is assumed to *only* apply in these situations. But there are other issues that are not included in this list that may still lead to a grievance, such as a violation of unit bylaws, or the change in the content of an evaluation that does

not change the overall evaluation or merit increase. Code should be clarified to permit any process that can lead to a grievance being filed should always permit a reconsideration first.

Reconsideration is explicitly an option in three sections, 5.2.4, which deals with the denial of tenure, promotion, or reappointment, 5.4.7(g), which deals with a layoff due to financial exigency or curricular review, and 5.16, which deals with denial of merit increases. Reconsideration is also explicitly denied in Sections 5.4.8 and 5.5.2-4 (reassignment of administrators), and 5.5.7 (the new section on furloughs).

- (b) At UNR, we have modified our bylaws so that the Provost makes the final decisions on many reconsiderations. Our purpose for this change was because the President makes the final decision after a grievance, and we thought it unwise to have the President already on record as having denied a reconsideration. However, Code 5.2.4 explicitly says that in matters of denial of tenure or promotion, the President makes the decision. We would like to make this permissive, so other institutions are not required to change how they do it.
- (c) The requirement for Regents' approval for tenure is covered already in section 5.2.2. Repeating it in some sections but not others opens up unintentional loopholes.