

Title 4 - Codification of Board Policy Statements

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Section 1. Introduction

1. This chapter shall be known and may be cited as the Nevada System of Higher Education (NSHE) Professional Employee Collective Bargaining Regulations.
2. These regulations have been adopted by the Board of Regents of the NSHE under the Board's authority established by Article 11, Section 4 of the Nevada Constitution to manage

10. "Managerial employee" means any individual employed in a position in which the principal functions performed are characterized by the administration of collective bargaining agreements or major personnel decisions, or both, including the staffing, hiring, firing, transferring, laying off, disciplining, evaluating, promoting or training of professional employees.
11. "Member institution " means the University of Nevada, Reno; the University of Nevada, Las Vegas; the Desert Research Institute; the Nevada State University; the College of Southern Nevada; the Great Basin College; the Truckee Meadows Community College; or the Western Nevada College.
12. "President" means the chief administrative officer of the University of Nevada, Reno; the University of Nevada, Las Vegas; the Desert Research Institute; the Nevada State University; the College of Southern Nevada; the Great Basin College; the Truckee Meadows Community College; or the Western Nevada College.
13. "Professional employee" means any employee issued a contract or letter of appointment by a member institution or unit of the System for employment in the professional service of the System for a period exceeding six months at .50 FTE or more, but excluding adjunct faculty members, administrators and clinical faculty members.
14. "Strike" means any concerted action of the following types:
 - a. Stoppage of work, slowdown or interruption of operations by employees of a member institution or

- d. Establishing or participating in the establishment of performance standards for subordinate employees and taking corrective measures to implement those standards, or effectively recommending the same, provided, that in connection with any of the foregoing, the exercise of such functions or authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

16. "System" means the NSHE.

17. "System bargaining unit" means a bargaining unit consisting of the professional employees of the two universities of the System, the Desert Research Institute, the state college, and one or more, if any, of the community colleges of the System whose professional employees have elected not to belong to the community college bargaining unit.

18. "Unit" means any component of the NSt.

2. Ballots for the election shall be mailed to all eligible professional employees for the bargaining unit involved. The professional employees receiving the ballots shall be given the option, to be stated on the ballot, of casting their votes either by return mail or in person at designated voting locations and at designated times and dates.

(B/R 2/90)

Section 7. Balloting Shall Be in Two Parts

1. In an election among the employees for whom representation is sought, two issues may

- a. If a community college bargaining unit is established as provided in Sections 5, 6 and 7 of this chapter and if the professional employees of one or more community colleges have also elected not to belong to the community college bargaining unit as provided in those sections, the professional employees of any such nonparticipating community college may seek to join the community college bargaining unit at a later time by filing an application through an employee organization and by participating in an election under the provisions of Sections 5, 6 and 7 of this chapter. However, such an application may not be filed for a period of more than 180 calendar days nor less than 120 calendar days before the date of expiration of any bargaining agreement then in existence under this chapter. The ballot shall be limited to the single issue of whether the professional employees of the community college(s) involved wish to be represented or not by the employee organization already representing the professional employees who are already in the bargaining unit. For this purpose the ballot established in Section 7(2) of this chapter shall be used.
- b. After the professional employees of any community college elect to belong to a single, separate community college bargaining unit, the professional employees of a community college in the unit cannot choose to leave the community college bargaining unit. This paragraph shall not be deemed to prohibit the decertification, under Section 8 of this chapter, of an employee organization representing all of the professional employees of the community college bargaining unit.

(B/R 2/90)

Section 8. Decertification

1. Except during the calendar year specified in Section 7 of this chapter, the System will withdraw recognition of an employee organization if the subject organization has been decertified within the provisions of this section by a majority vote of all eligible professional employees of the bargaining unit represented.
2. Decertification shall be initiated by one of the following methods:
 - a. Members of the negotiating unit seeking to decertify a recognized employee organization must submit notice of intent in writing to the Chancellor and the employee organization and include signed evidence of intent to decertify from no less than 30 (thirty) percent of the eligible professional employees in the unit represented by the recognized employee organization; or
 - b. The Chancellor notifies the Board of Regents that the Chancellor has a good faith reason to believe that the presently certified employee organization representing the bargaining unit is no longer supported by a majority of the professional employees of the bargaining unit. The American Arbitration Association shall also be notified of this belief by the Chancellor and the Association shall be requested to review the matter upon appropriate hearing and report to the Board of Regents on whether the Chancellor's action is justified. The Board shall take no action on the matter unless the American Arbitration Association indicates that the Chancellor's notification is justified.

3. Upon a finding by the Board of Regents that the above requirements have been met, an election shall be scheduled in a manner consistent with the procedures specified for elections in Section 6 of these regulations.
4. No action to decertify shall be considered during the effective term of a bargaining agreement except for a period of not more than 180 calendar days to not less than 120 S

- q. Procedures for reduction or addition in work force.
 2. All provisions of the NSHE Code, institutional bylaws and all other policies, procedures, rules and regulations of whatever nature of the NSHE, its member institutions or any other unit of the System, not specifically modified by the terms of any collective bargaining agreement made pursuant to this chapter, shall remain in force and effect unless and until modified by the appropriate System authority, which it may do at any time.
 3. Except as modified in collective bargaining agreement regarding the topics enumerated in paragraph 1 above, the Board of Regents, in accordance with its authority under Article 11, Section 4 of the Nevada Constitution, has retained and will continue to retain, whether exercised or not, the sole right, responsibility, authority or prerogative to make rules for the government of the NSHE and shall determine the mission, means, number and types of personnel, as well as the general policies of the NSHE, its member institutions and any unit of the System including, but not limited to, those concerning academic, curricular, programmatic, financial and personnel matters.
- (B/R 2/90)

Section 14. Commencement of Negotiations

The recognized employee organization and the System's negotiating representatives designated by the Board of Regents shall promptly commence negotiation upon receipt of notice as specified in Section 11 of this chapter.

(B/R 2/90)

Section 15. Use of Mediator

During the course of negotiations, the parties may mutually agree to utilize the services of a mediator to assist them in resolving any dispute. If the parties agree to utilize a mediator, but are unable to agree on the identity of a mediator, either party may request from the American Arbitration Association, a list of seven potential mediators who have a background in postsecondary education. The parties shall, within three days after receipt of the list, select their mediator from this list by alternately striking one name until the name of only one mediator remains, who will be the mediator to consider the dispute in question. The employee organization shall strike the first name. The mediator shall have the authority to schedule meetings between the parties. The System and the employee organization each shall pay one half of the cost of mediation; however, each party shall pay its own costs incurred in the preparation and presentation of its case.

(B/R 2/90)

Section 16. Selecting a Factfinder

1. If after 60 calendar days following receipt of notice of desire to negotiate, the parties have not reached agreement, and mediation, if undertaken, has been unproductive, either party may request that the dispute be submitted to an impartial factfinder for findings and recommendations. These findings and recommendations are not binding on the parties.

2. If the parties are unable to agree on an impartial factfinder within five calendar days after a request for submission of the dispute to a factfinder has been made, either party may request from the American Arbitration Association, a list of seven potential factfinders who have a background in postsecondary education factfinding. The parties shall, within three calendar days, select their factfinder from this list by alternately striking one name until the name of only one factfinder remains, who shall be the factfinder to hear the dispute in question. The employee organization shall strike the first name.
3. The System and the employee organization shall each pay one half of the cost of factfinding, but each party shall pay its own costs incurred in the preparation and presentation of its own case in factfinding.
4. The powers of the factfinder selected are limited exclusively to an examination, report, and recommendations pertaining to the disputed subjects jointly submitted by the System and employee organization and the factfinder shall not address any other issue.
5. The factfinder shall report the factfinder's findings and recommendations only to the parties joining in submittal of the dispute. These findings and recommendations shall be in writing and shall be delivered within 30 calendar days after the conclusion of the factfinding hearing. The factfinder is prohibited from disclosing the findings and recommendations, including public media disclosure, without the prior written consent of the parties originally submitting the dispute to the factfinder's jurisdiction.
6. If, during the course of factfinding hearing,
 - a. It appears that the financial ability of the System to comply with a request is a substantial issue; and
 - b. The Legislature is then in a session at which appropriation of money for the support of the System or authorization of expenditures by the System may be made, the hearing shall be stayed until the expiration of ten days after the adjournment sine die of the Legislature.

(B/R 2/90)

Section 17. Recommendation of Factfinder

1. Any factfinder shall base the factfinder's recommendation on the following criteria:
 - a. A preliminary determination shall be made as to the financial ability of the System, based on existing available revenues, to comply with the request of the employees' organization, and the reasonableness of such request, and with due regard for the obligation of the University to provide instruction, research and public services at a System level and instruction at a community college level;
 - b. A comparison shall be made of the annual income and benefits of the professional employees in question with the annual income and benefits of professional employees

- c. A consideration shall be made of the impact on and consistency of treatment of such proposals on the other employees of the System; and
 - d. The interest and welfare of the public.
2. The factfinder's written report shall state the facts upon which the factfinder based the recommendation.
(B/R 2/90)

Section 18. Deadlock

1. If the parties have negotiated in good faith and have been unable to reach an agreement, and have utilized the factfinding procedure and are still unable to resolve their differences and negotiate a settlement within 45 calendar days of receipt of the factfinder's report, a negotiation deadlock shall be considered to exist.
2. When a negotiation deadlock exists, the report of the factfinder may be made public by either party along with any statements issued by the employee organization or the Board of Regents.
3. Within ten calendar days of release of the factfinder's report, the parties shall again meet and attempt to reach an agreement.
4. Nothing in this chapter shall be interpreted as requiring either the employee organization or the Board of Regents to agree to a settlement.
(B/R 2/90)

Section 19. Strikes; Lockouts

1. The Board of Regents finds as facts:
 - a. That some of the services provided by the System are of such nature that they are not and cannot be duplicated from other sources and are essential to the health, safety, and welfare of the people of the State of Nevada;
 - b. That the continuity of such services is likewise essential, and their disruption incompatible with the responsibility of the state to its people, and;
 - c. That every person who enters or remains in the employment of the System accepts the facts stated in paragraphs a. and b. as an essential and non-negotiable condition of his or her employment.
2. The Board of Regents therefore declares it to be the public policy of the NSHE that strikes against the System are contrary to these regulations.

