

## Proposed changes to the NSHE Handbook, Title 4, Chapter 4

### “PROFESSIONAL STAFF COLLECTIVE BARGAINING REGULATIONS”

For consideration by the Board of Regents

The NSHE provisions for collective bargaining for professional employees have not undergone major revisions since they were first adopted in 1990. The original regulations largely followed Nevada state statutes at the time for local government employees in NRS 288, which have evolved over the past three decades. In 2019 the Legislature established collective bargaining for state classified employees. These proposed revisions to Title 4, Chapter 4 make the following primary changes:

- 1) **More flexible definition of bargaining units.** The original regulations in 1990 envisioned a single statewide “system” bargaining unit but allowed for a single, separate “community college” bargaining unit. This does not match the status quo with three bargaining units: the TMCC bargaining unit includes both academic and administrative faculty, while the CSN and WNC bargaining units include only academic faculty. The confusing distinction between “system” and “community college” bargaining units is eliminated in the proposed revision. Bargaining units may be formed at individual institutions following the usual “community of interest” standard.
- 2) **Clarify the definition of covered professional employees** to explicitly exclude administrators, managerial employees, and uncompensated individuals but to include employees on semester or annual contracts.
- 3) **Update collective bargaining definitions and procedures** to match current statutes for classified or local government employees, where appropriate. In particular, the methods for establishing a bargaining unit are taken from NRS 288 for classified employees. These updates will make collective bargaining processes at NSHE more consistent between classified and professional employees.
- 4) **Other revisions** to clarify the intent or remove confusing language.

*Proposed Revisions 10/16/2023*

~~[DELETED TEXT]~~

Annotations in Comments

*[CONSIDER: Because this chapter pertains to binding contractual agreements with employees, it would seem appropriate to move it from Title 4 (Codification of Board Policy Statements) to Title 2 (NSHE Code).]*

Title 4 - Codification of Board Policy Statements

Chapter 4

PROFESSIONAL STAFF COLLECTIVE BARGAINING REGULATIONS

Section 1. Introduction

Section 2. Definitions

Section 3. Right to Join Employee Organizations

Section 4. Bargaining ~~Unit~~ *Units*

Section 5. Representative Application; *Selection of Third-Party Administrators and Arbitrators*

Section 6. Election

Section 7. Balloting Shall Be in Two Parts

Section 8. Decertification

Section 9. External Funding *and Authority*

Section 10. Agreements Shall Be in Writing; *Ratification*

Section 11. Written Notice; Duration of Agreement

Section 12. Informal Discussions

Section 13. Scope of Collective Bargaining

Section 14. Commencement of Negotiations; *Requests for Information*

Section 15. ~~Use of Mediator~~ *Mediation*

Section 16. ~~Selecting a Factfinder~~ *Arbitration*

Section 17. ~~Recommendation of Factfinder~~ *Decision of the Arbitrator*

~~Section 18. Deadlock~~

Section ~~19~~ *18*. Strikes; Lockouts

Section ~~20~~ *19*. Injunctions

Section ~~21~~ *20*. Violations

Section ~~22~~ **21**. Suspension of Striking Employees

Section ~~23~~ **22**. System Prohibitions

Section ~~24~~ **23**. Employee Prohibitions

### 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 **and by Nevada Revised Statutes (NRS) 396.110** to manage and control the government and the essential functions of the University of Nevada.

**Commented [K1]:** Add statutory authorization as backup for constitutional authorization.

### Section 2. Definitions

As used in this chapter, unless the context otherwise requires, the words and terms defined in this section shall have the following meanings ascribed to them:

~~1. "Adjunct faculty member" means any individual holding a professional position with any member institution or unit of the System, except as a clinical faculty member, for which the individual receives no salary.~~

**Commented [K2]:** Avoid non-standard definition of "adjunct faculty". Nonpaid individuals are excluded from definition of "professional employee"

~~2. I. "Administrator" means any Assistant or Associate Dean, Dean, Vice President, President, Deputy Treasurer, Assistant Chief Counsel, Vice Chancellor, Chancellor, professional employee in the Presidents' or the Chancellor's Office(s), Secretary to the Board of Regents, confidential, supervisory or managerial employee or assistant to any of the above named administrators.~~ **the Chancellor; the Presidents; any vice-chancellor, vice-president, provost, vice-provost, or dean; associate and assistant vice-chancellors, vice-presidents, vice-provosts, and deans; other employees who are primarily responsible for formulating and administering management policies and programs of the System or a member institution; and attorneys who serve the System, its member institutions or units, or other administrators or managerial employees.**

**Commented [K3]:** Clarify definition of Administrator using current titles, explicitly include general counsels at all institutions.

2. **"Arbitration"** means a process of dispute resolution where the parties involved in an

**Commented [K4]:** Definition of Arbitration adapted from NRS 288.410. The Uniform Arbitration Act, which applies to any arbitration, allows litigation of an arbitration decision only in very narrow circumstances.

*impasse or grievance dispute submit their dispute to a third party for a final and binding decision, subject to the Uniform Arbitration Act (NRS Chapter 38).*

3. **"Bargaining agent"** *means an employee organization that has been recognized as the exclusive representative of a bargaining unit.*

**Commented [K5]:** Definition of bargaining agent from NRS 288.133. Synonym for "exclusive representative"

4. **"Bargaining unit"** *means a group of professional employees recognized as having sufficient community of interest for representation by an employee organization for the purpose of collective bargaining.*

**Commented [K6]:** Definition of bargaining unit from NRS 288.134.

~~3-5.~~ "Board of Regents" means the board specified in Section 4 of Article 11 of the Nevada Constitution, and constituted pursuant to ~~Nevada Revised Statutes-NRS~~ 396.040, which controls the NSHE.

~~4-6.~~ "Chancellor" means the Chancellor of the NSHE.

~~5.~~ **"Clinical faculty member"** ~~means any individual holding a professional position with the University of Nevada, Reno School of Medicine; the University of Nevada, Las Vegas School of Medicine; or the Orvis School of Nursing, University of Nevada, Reno, for which the individual receives no salary.~~

**Commented [K7]:** Avoid non-standard definition of clinical faculty. Nonpaid individuals are excluded from the definition of professional employees.

~~6.~~ **"Community college bargaining unit"** ~~means a bargaining unit consisting of the professional employees of one or more community colleges of the System who have elected to belong to the bargaining unit.~~

**Commented [K8]:** Eliminate confusing and anachronistic distinction between system and community college bargaining units.

7. "Confidential employee" means any employee who works in a Personnel Office or has, as part of his or her regular duties, access to management information, personnel information affecting employee relations or confidential information used by management in collective bargaining, or any employee in the Offices of the Chancellor ~~or the~~, Presidents, **or Provosts**.

8. "Employee" means any individual employed by a member institution or unit of the System.

9. **"Employee organization"** means ~~an any~~ organization of any kind ~~in which employees participate and which exists for the purpose, in whole or in part, of collective bargaining~~ *having as one of its purposes the improvement of the terms and conditions of employment of professional employees.*

**Commented [K9]:** Definition of employee organization from NRS 288.040.

10. **"Grievance"** *means an act, omission, or occurrence that a professional employee or an employee organization believes to be an injustice relating to any condition arising out of the*

**Commented [K10]:** Definition of grievance adapted from NRS 288.435.

*relationship between the System and a professional employee, including, without limitation, working hours, working conditions, membership in an employee organization, or the interpretation of any law, regulation, the NSHE Handbook, or agreement.*

11. "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. *A professional employee shall not be deemed a managerial employee for the purposes of this chapter solely because the individual participates in decisions with respect to courses, curriculum, personnel, or other matters of educational policy through shared governance mechanisms or peer review. A chair or head of an academic department or similar unit or program who performs the foregoing duties primarily on behalf of the members of the academic unit or program shall not be deemed a managerial employee solely because of those duties.*

12. "*Mediation*" means assistance by an impartial third party to reconcile differences between the NSHE and a bargaining agent through interpretation, suggestion, and advice.

~~13.~~ "Member institution" means the University of Nevada, Reno; the University of Nevada, Las Vegas; the Desert Research Institute; the Nevada State College, Henderson; the College of Southern Nevada; the Great Basin College; the Truckee Meadows Community College; or the Western Nevada College.

~~14.~~ "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 College, Henderson; the College of Southern Nevada; the Great Basin College; the Truckee Meadows Community College; or the Western Nevada College.

~~15.~~ "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.~~

- a. Classified employees of the System as defined in NRS 288.425;*
- b. Administrators;*
- c. Managerial employees;*

**Commented [K11]:** The decision of whether to include academic department chairs in faculty bargaining units is addressed in section 5.1.3.

**Commented [K12]:** Definition of mediation adapted from NRS 288.065.

**Commented [K13]:** Clarify the definition of professional employees covered by this chapter. Includes employees on semester-by-semester or annual contracts. For clarity explicitly exclude certain categories in parts a-f.

*d. Confidential employees;*

*e. Temporary, intermittent, or seasonal workers employed for less than 90 days in a 365-day period; and*

*f. Individuals who are not compensated for their service to the System or to a member institution or unit of the System.*

**16. "Recognition" or "recognized" means the formal acknowledgement by the System that a particular employee organization has the right to represent professional employees.**

**Commented [K14]:** Definition of recognition adapted from NRS 288.136.

**17. "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 unit of the System;
- b. Absence from work by employees of a member institution or unit of the System upon any pretext or excuse, including but not limited to illness, which is not founded in fact; or
- c. Interruption of the operations of a member institution or unit of the System by an employee organization.

~~15-18.~~ **"Supervisory employee" means any individual in a position in which the principal functions are characterized by two or more of the following:**

- a. Performing such management duties as scheduling, assigning, overseeing, or reviewing the work of subordinate employees, or effectively recommending the same; or
- b. Performing such duties as are distinct and dissimilar from those performed by the employees supervised; or
- c. Exercising judgment in adjusting grievances, applying other established personnel policies and procedures and in enforcing the provisions of the collective bargaining agreement, or effectively recommending the same; 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.

***A professional employee shall not be deemed to be a supervisory employee for the purposes of***

*this chapter solely because the individual participates in decisions with respect to courses, curriculum, personnel, or other matters of educational policy through shared governance mechanisms or peer review. A chair or head of an academic department or similar unit or program who performs the foregoing duties primarily on behalf of the members of the academic unit or program shall not be deemed a supervisory employee solely because of those duties.*

~~16~~19. "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.~~

~~18-20.~~ "Unit" means any component of the NSHE.

**Commented [K15]:** The decision of whether to include academic department chairs in a faculty bargaining unit is addressed in section 5.1.d.

**Commented [K16]:** Eliminate confusing and anachronistic distinction between bargaining units for the system and for community colleges.

### Section 3. Right to Join Employee Organizations

It is the right of every professional employee of the System who is not specifically excluded by this chapter, to join any employee organization of his or her choice or to refrain from joining any such organization. The System shall not discriminate in any way among its employees on account of advocacy of membership or non-membership in any such organization.

### Section 4. Bargaining Unit Units

1. For the purposes of this chapter, except as otherwise provided herein, all of the professional employees of the System *and of each member institution* are deemed by the Board of Regents to have a substantial community of interest *for the purposes of forming bargaining units.* ~~and shall constitute one bargaining unit only.~~

~~2. If the conditions specified in Sections 5, 6 and 7 of this chapter for establishing two bargaining units are met, then there shall be two bargaining units only as provided herein, one of which shall be the System bargaining unit and one of which shall be the community college bargaining unit.~~

2. A bargaining unit may consist of academic faculty, administrative faculty, or other

**Commented [K17]:** Eliminate confusing and anachronistic distinction between "system" and "community college" bargaining units, and make formation of bargaining units more flexible based on institutional conditions.

**Commented [K18]:** Eliminate confusing distinction between system bargaining unit and community college bargaining units.

**Commented [K19]:** Allow flexible formation of bargaining units based on institutional and employee needs. The status quo is bargaining units at CSN and WNC with academic faculty only and the bargaining unit at TMCC that includes academic and administrative faculty. The composition of bargaining units is ultimately determined by a majority of employees who authorize an employee organization to serve as the bargaining agent of the bargaining unit. For

categories of professional employees, separately or combined.

3. A bargaining unit may be contained within a single member institution or may span multiple member institutions. In the case of a bargaining unit spanning multiple member institutions, the authorizations or votes for formation of the bargaining unit pursuant to sections 5, 6, and 7 must be approved by the required majorities or percentages of the professional employees within each member institution separately. If the professional employees of a member institution do not separately approve the multi-institutional bargaining unit, those employees will not join or become part of the bargaining unit.

~~3. If a majority of the department chairs or those professional employees whose duties are functionally equivalent to department chairs in a unit, not otherwise excluded from a collective bargaining unit as provided in this chapter, specify that they wish to be included in the collective bargaining unit, they shall be included in the collective bargaining unit, but otherwise they shall not be included in the collective bargaining unit. Such employees will notify the President of their preference as to inclusion or exclusion from the collective bargaining unit at least ten calendar days prior to any election held under this chapter.~~

4. Managerial employees must be excluded from any bargaining unit.

5. Confidential employees must be excluded from any bargaining unit but are entitled to participate in any plan to provide benefits for a group that is administered by the bargaining unit of which they would otherwise be a member.

6. A supervisory employee must not be a member of the same bargaining unit as the professional employees under supervision of the supervisory employee. An employee organization that is negotiating on behalf of two or more bargaining units may select members of the units to negotiate jointly on behalf of each other, even if one of the units consists of supervisory employees and the other unit does not.

7. If multiple bargaining units of the System are represented by the same employee organization, two or more of the those bargaining units may conduct joint negotiations on some or all provisions of agreements by mutual agreement among the bargaining units and the System. Provisions negotiated jointly shall be incorporated in writing into the separate bargaining agreements.

**Commented [K20]:** This section, along with conforming language in sections 5, 6, and 7, explicitly makes possible the formation of a bargaining unit across multiple campuses, if approved by the members of the bargaining unit on each campus separately.

**Commented [K21]:** Decision on whether to include academic department chairs in a bargaining unit is addressed in section 5.1.d.

**Commented [K22]:** Explicit exclusion of managerial employees. See also definition of professional employees.

**Commented [K23]:** Explicit exclusion of confidential employees from NRS 288.170(4)

**Commented [K24]:** Separate bargaining units for supervisory employees. Compare NRS 288.170(3).

**Commented [K25]:** Allows, but does not require, multiple bargaining units to jointly bargain to reduce the negotiation workload. This could apply to faculty bargaining units at more than one institution or separate academic and administrative faculty bargaining units within one institution, for example.

Section 5. Representative Application; *Selection of Third-Party Administrators and Arbitrators*



1. An employee organization seeking to represent System employees in their employment relationship must submit an application in writing to the Chancellor and include the following:

- a. A copy of its articles of incorporation **or charter**;
- b. A copy of its bylaws;
- c. A roster of its officers and representatives, including name, address, and official function or title;
- d. Identification of the *bargaining* unit sought for representation, **including the categories of professional employees to be included, the member institution or institutions to be included, and whether academic department chairs are to be included**; and

~~e. Signed~~ *Except as provided in subsection 3 of section 4, one of the following:*

*(1) A **list of its membership or other** evidence ~~of interest in being represented by showing that~~ the employee organization ~~from~~ *has been authorized to serve as the exclusive representative by more than 50 (fifty) percent of the professional employees contained in the bargaining unit. In this case the employee organization shall be recognized by the Chancellor as the exclusive representative of the bargaining unit. Upon verification of a sufficient number of employee authorizations, the Chancellor shall within 15 calendar days notify the employee organization that it has been recognized as the exclusive representative for the bargaining unit.**

*OR*

*(2) A **list of its membership** or other evidence showing that the employee organization has been authorized to serve as the exclusive representative by the employee organization by no less than 30 (thirty) percent **but not more than 50 (fifty) percent** of all of the eligible professional employees contained in the ~~unit sought~~ *bargaining unit. In this case a representation election, as provided in Sections 6 and 7 of this chapter shall be held.**

~~f. In order to establish a single, separate community college bargaining unit, an application must also contain signed evidence of interest in being represented by an~~

**Commented [K26]:** Employee organizations may be independent or chartered through a national parent organization.

**Commented [K27]:** Allows the employee organization seeking recognition to determine whether academic department chairs are appropriate for inclusion in the bargaining unit per sections 2.11 and 2.18.

**Commented [K28]:** "Card check", language adapted from NRS 288.520.

**Commented [K29]:** Adapted from NRS 288.525. With card-check, the need for representation elections should rare.

~~employee organization in such a community college bargaining unit from no less than 30% (thirty percent) of all of the eligible professional employees of any community college in the System whose faculty may desire to collectively bargain, and this shall authorize the Board of Regents to hold a representation election, as provided in Sections 6 and 7 of this chapter, only among the professional employees of the community college(s) whose faculty have submitted an application required by this section through an employee organization. Any other community college professional employees may participate in the election by submitting an application through an employee organization as required by this section no later than ten calendar days prior to the date of the scheduled election.~~

*2. A third-party administrator chosen pursuant to subsection 4 of this section shall certify employee authorizations by cross-checking the authorizations submitted by the employee organization to the arbitrator against the System's employment records. The employee authorizations are confidential and the employee identities shall not be disclosed by the third-party administrator to any person.*

3. ~~2~~ Any revision or changes as to paragraphs a., b., and c. of subsection 1 shall be furnished to the Chancellor and to each member of the employee organization.

*4. Certification of employee authorizations pursuant to subsection 1(e) of this section or subsection 2(a) of section 8, administration of representation elections pursuant to section 6, 7, or 8, and review of a decertification request by the Chancellor pursuant to section 8 shall be provided by an independent third-party administrator or arbitrator chosen by mutual agreement between the employee organization and the Chancellor. If the Chancellor and the employee organization cannot agree upon the third-party administrator or arbitrator, an arbitrator to provide the service shall be chosen from a list of five qualified arbitrators provided by the Federal Mediation and Conciliation Service. The parties shall, within five days after receipt of the list, select an arbitrator from the list by alternately striking one name until the name of only one arbitrator remains, who will be the arbitrator to provide the service. The party who will strike the first name must be determined by a coin toss. Each party shall pay half the cost of the third-party administration or arbitration services, except that the party requesting a decertification review or election shall pay the full cost.*

**Commented [K30]:** Eliminate anachronistic distinction of separate community college bargaining unit.

**Commented [K31]:** Clarify how employee authorizations are certified.

**Commented [K32]:** The state Employee-Management Relations Board (EMRB) provides card-check verification, representation election administration, and decertification reviews for local government and state classified employee organizations per NRS 288. The Federal Mediation and Conciliation Service provides card-check services only for private sector unions and employers. This language is meant to duplicate those services using an independent third-party administrator or arbitrator, leaving open the possibility of an intergovernmental agreement between NSHE and the EMRB to provide such services if the EMRB is able. The FMCS arbitrator selection service optionally allows the parties to require that the arbitrator to be a member of the American Arbitration Association, if the parties agree, but that could limit the number of arbitrators available.

Section 6. Election

1. Upon verification by the ~~Chancellor~~ *third-party administrator or arbitrator* that the ~~above~~ requirements *in Section 5, subsection 1, paragraph e(2)* have been met, the Chancellor shall ~~place the application for recognition on the agenda as an action item of the next regularly scheduled meeting of the Board of Regents. The Board of Regents shall at that meeting provide for the American Arbitration Association to conduct an election in accordance with its rules.~~ *arrange for a representation election to be held among eligible bargaining unit members within 60 days according to the procedures of this section. The election by secret ballot among the employees for whom representation is sought shall be held no sooner than 15 calendar days and no longer than 30 calendar days from the date of the Board of Regents meeting at which the request was presented.*

2. *The election shall be conducted by secret ballot among the professional employees in the bargaining unit for whom representation is sought. Except as provided in subsection 3 of section 4, a majority of the votes cast is required to approve the establishment of the bargaining unit and an employee organization as the bargaining agent and exclusive representative of the bargaining unit.*

3. *An independent third-party administrator or arbitrator is chosen pursuant to subsection 4 of section 5 shall conduct the representation election.*

4. *Written notices of the election must be sent by the election administrator to the home address or post office box and to the workplace electronic mail account of each eligible member of the bargaining unit at least 20 days prior to the election.*

5. *At least two weeks shall be allowed for voting. Secret ballot voting shall be allowed by (1) mail-in ballots postmarked by the end of the voting period and received within seven calendar days thereafter and (2) at onsite polling places provided for at least four hours on each of at least six days during the voting period. By written agreement between the Chancellor and the employee organization, secure electronic voting may be used in addition to or as a substitute for mail-in or onsite balloting or both.*

~~6.~~ Ballots for the election shall be mailed to all eligible professional employees for the bargaining unit involved *at least seven days prior to the beginning voting.* ~~The professional employees receiving the ballots shall be given the option, to be stated on the ballot, of casting~~

**Commented [K33]:** With card-check in Section 5, the need for elections should be rare. The changes to sections 6 and 7 are intended to avoid logistical issue like those that occurred in 2019 at NSC (for example, ballots mailed from the east coast and not received in a timely manner and limited onsite voting).

**Commented [K34]:** The administration of elections is a ministerial function that can be delegated to the Chancellor without Board of Regents involvement or waiting for it to be agendized at a regular Board meeting. The independent election administrator is chosen per subsection 3.

**Commented [K35]:** Follows voting standard of NRS 288.530.

**Commented [K36]:** Clarify who sends election notices. Having the independent administrator do it removes potential conflicts of interest. Note that this notice starts the clock for another employee organization to pursue recognition per subsection 4 of section 7.

**Commented [K37]:** Provide flexibility for electronic voting in the future.

~~their votes either by return mail or in person at designated voting locations and at designated times and dates. The options and designated times, dates, and places for voting by mail, in person, or electronically shall be clearly stated in the election notices.~~

7. The **timelines** in this section may be modified by mutual written agreement between the employee organization and the Chancellor.

**Commented [K38]:** Provide flexibility—for example, if balloting would happen during off-contract periods.

#### Section 7. Balloting Shall Be in Two Parts

1. In an election among the employees for whom representation is sought, two issues may be placed on the same ballot, the first of which in all events must be placed on the ballot and the second of which must be placed on the ballot only if two or more employee organizations have applied for representation of professional employees.

2. ~~In If~~ only one employee organization has applied for representation of professional employees, the first part of the ballot shall be worded as follows: (Name of employee organization) has applied to represent ~~all of~~ the eligible (*identify category or categories*) professional employees in (identify the ~~bargaining unit~~ *member institutions(s)*) for purposes of collective bargaining with the NSHE. If a majority of ~~all of~~ the *votes cast by* the eligible (*identify category or categories*) professional employees *of (identify the member institution)* in the bargaining unit for whom representation is sought vote "yes", then (name of employee organization) shall be elected to serve as the professional employees' bargaining agent. Vote for one alternative:

**Commented [K39]:** Typographical correction.

\_\_\_ Yes, I want (name of employee organization) designated as my agent for collective bargaining purposes *for (identify the bargaining unit)*.

\_\_\_ No, I do not want collective bargaining.

**Commented [K40]:** Follows voting standard of NRS 288.530.

3. If two or more employee organizations have applied for representation:

a. The first part of the ballot shall be worded as follows: Several employee organizations have applied to represent all the eligible professional employees in (identify the bargaining unit) for purposes of collective bargaining with the NSHE. If a majority of ~~all of~~ the *votes cast by* eligible professional employees in the bargaining unit *of each member institution* for whom representation is sought vote "yes", then one of the employee organizations on the second part of the ballot shall

**Commented [K41]:** Follows voting standard of NRS 288.530.

be elected to serve as the professional employees' bargaining agent.

Vote for one alternative:

\_\_\_ Yes, I want ~~(name of~~ *to designate an* employee organization) ~~designated~~ as my agent for collective bargaining purposes *for (identify the bargaining unit)*.

\_\_\_ No, I do not want collective bargaining.

b. If a majority of ~~all of the~~ *votes cast by* eligible professional employees in the *bargaining* unit for whom representation is sought fail to vote "yes", the party or organization conducting the election shall not count the votes cast for labor organizations on the second part of the ballot.

c. The second part of the ballot shall be worded as follows: If a majority of ~~all of the~~ *votes cast by* eligible professional employees in the bargaining unit for whom representation is sought vote "yes" in favor of designating an agent for collective bargaining purposes, one of the following organizations shall be so designated.

Regardless of how you voted on the first part of the ballot, vote for one of the organizations listed below to serve as agent for collective bargaining purposes. The employee organization receiving a majority of the votes cast shall be elected to serve as the professional employees' bargaining agent, provided the requisite minimum number of "yes" votes has been cast in the first part of the ballot.

- \_\_\_(organization)
- \_\_\_(organization)
- \_\_\_(organization)

4. After ~~the Board of Regents has set~~ *the members of the bargaining unit have been notified of* the date of the election *pursuant to subsection 4 of section 6*, additional employee organizations seeking to represent the eligible professional employees of the *bargaining* unit in question may file an application with the Chancellor no later than ten calendar days prior to the election. The application shall contain the information specified in Section 5, subsections a. through d. of this chapter. If the application contains signed evidence of interest in being represented by the employee organization from no less than 10 (ten) percent of all the eligible professional employees contained in the *bargaining* unit in question, the organization shall be included on the ballot of the election.

5. The results of the election shall be binding on all parties as of the date certified by the

**Commented [K42]:** Correct the wording for the first part of a two-part ballot (appears to be a transcription error versus the original 2/1990 version).

**Commented [K43]:** Follows voting standard of NRS 288.530.

**Commented [K44]:** Follows voting standard of NRS 288.530.

party or organization conducting the election, and no other application or elections involving the same bargaining unit shall be accepted or permitted for a period of one calendar year from the date of the certification, with the exception of a runoff election which might be necessitated where no employee organization received a majority of the votes cast in a two part ballot. Runoff elections shall ~~be held~~ *commence* no sooner than five calendar days and no longer than ~~ten~~ *fifteen* calendar days after the election. Only the top two vote-getting employee organizations from the previous election shall be listed on the ballot for the runoff election. The employee organization receiving a majority of the votes cast in a runoff election shall be elected to serve as the professional employees' bargaining agent.

~~6. When an election is held only among the eligible professional employees of one or more community colleges, as provided in Section 5(1)(f) of this chapter, the following procedures shall be in effect:~~

~~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.~~

**Commented [K45]:** Eliminate the distinctions between system vs community college bargaining units

## Section 8. Decertification

1. ~~Except during the calendar year specified in Section 7 of this chapter, the~~ *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. *An arbitrator to review the matter shall be chosen using the method of subsection 4 of section 5.* ~~The American Arbitration Association shall also be notified of this belief by the Chancellor and the Association~~ *The arbitrator* 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~~ *arbitrator* 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 **240 calendar days to not less than 180 calendar days** ~~to not less than 120 calendar days~~ before ~~its~~ *the* date of termination *of the*

**Commented [K46]:** Moves up the window for decertification, recognizing that negotiations may start more than 120 days before the end of a contract. The intent of the final sentence is unclear, and it appears to be unnecessary.

~~agreement. For the purposes of timeliness of notice, an existing written collective bargaining agreement for a term in excess of two years shall be treated as a two-year agreement.~~

#### Section 9. External Funding *and Authority*

1. The System is constrained by funding resources external to its control and subject to approval by bodies not participant in negotiations such as are provided by these regulations.

~~No provision of any bargaining agreement negotiated pursuant to this chapter which requires the expenditure of funds for any purpose shall be effective unless and until funds are appropriated and are made available to the System by the Nevada Legislature. It is therefore imperative that the negotiating parties function in a spirit of mutual respect and cooperation toward the achievement of their common, as well as individual, objectives. Any provision of any bargaining agreement negotiated pursuant to this chapter that requires the expenditure of funds from legislative appropriations shall not be effective unless and until such funds are appropriated and are made available to the System by the Nevada Legislature. The System and Board of Regents shall include requests for such legislative appropriations at the first available opportunity in the state budgeting process and shall make good-faith efforts to secure such funding.~~

*2. If a provision of any bargaining agreement negotiated pursuant to this chapter requires a statutory change, that provision shall not be effective unless and until the statutory change is passed into law. The System and Board of Regents shall submit bill draft requests at the first available opportunity to make such statutory changes and shall make good-faith efforts to secure the passage of the changes.*

#### Section 10. Agreements Shall Be in Writing

1. It is the duty of the System and the employee organization ~~designated~~ *recognized* as the bargaining agent for the *bargaining* unit to negotiate in good faith through their chosen representatives as required by this chapter.

2. All agreements reached shall be reduced to writing and submitted for ratification to the ~~professional employees represented by an~~ employee organization and to the Board of Regents. *The draft of the agreement must be submitted in writing by the employee organization to the organization's membership before a ratification vote by the members*

**Commented [K47]:** This section is modified to recognize that the member institutions now retain student fees and tuition and may have other funding sources besides legislative appropriations, and provides a mechanism for requests for legislative funding when necessitated by a collective bargaining agreement.

**Commented [K48]:** Partly adapted from NRS 288.560, but recognizing separate authority of the Board of Regents and the Legislature.



*of the employee organization within the bargaining unit to accept or reject the agreement.*

If the agreement is ratified by both parties, then it shall be signed by legally empowered representatives.

3. ~~Community colleges may~~ *Each bargaining unit shall* negotiate separate bargaining agreements.

**Commented [K49]:** Compliance with NRS 614.170, with clarification that only those members of the employee organization within the bargaining unit may vote on ratification.

**Commented [K50]:** Make consistent with new definition of bargaining units. This section was added by the Board of Regents on 12/2016 to allow separate bargaining agreements at CSN, TMCC, and WNC, but it contradicts the "single, separate community college bargaining unit" provisions in sections 5.1.f, and 7.6 of the current text.

#### Section 11. Written Notice; Duration of Agreement

1. Whenever a recognized employee organization or the ~~Board of Regents System~~ desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall provide written notice to the other party. The employee organization and the ~~Board of Regents System~~ may not provide written notice to the other party for a period of 60 calendar days from the date of certification of the election by the party or organization conducting the election. Collective bargaining agreements resulting from such negotiations shall be for duration of not less than two years, with this agreement duration to be congruent with the fiscal biennium concept used within the System. The minimum duration required by this section does not preclude agreements for more than two fiscal years, nor does the minimum duration apply to the initial agreement negotiated between the System and the employee organization.

*2. If the parties cannot agree to a new collective bargaining agreement before the end of the term of a collective bargaining agreement, the terms of that collective bargaining agreement remain in effect until a new collective bargaining agreement takes effect.*

**Commented [K51]:** From NRS 288.550. Continuation of an existing contract avoids ambiguity if negotiations go past the termination date.

#### Section 12. Informal Discussions

These regulations neither preclude nor require informal discussion between an employee organization and the System of any matter which is not subject to mandatory collective bargaining negotiations or a collective bargaining agreement under this chapter. Any such informal discussion is exempt from all requirements of notice or time schedule.

#### Section 13. Scope of Collective Bargaining

1. *Collective bargaining* entails a mutual obligation between the System and an exclusive representative to meet at reasonable times and to bargain in good faith with respect to:

- a. *The subjects of mandatory bargaining set forth in subsection 2;*
- b. *The negotiation of an agreement;*
- c. *The resolution of any question arising under agreement; and*
- d. *The execution of a written contract incorporating the provisions of an agreement.*

2. The scope of mandatory collective bargaining negotiations under this chapter shall be limited to the following topics:

- a. Salary or wage rates or other forms of direct monetary compensation.
- b. Sick leave.
- c. Vacation leave.
- d. Holidays.
- e. *Parental leave, family leave, and* other paid or nonpaid leaves of absence.
- f. Insurance benefits.
- g. Total hours of work required of a professional employee on each work week or work day.
- h. Total number of days worked required of a professional employee in a work year.
- i. Discharge and disciplinary procedures.
- j. Recognition clause.
- k. Deduction of dues for the recognized employee organization.
- l. Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
- m. Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.
- n. General savings clauses.

**Commented [K52]:** Definition of collective bargaining from NRS 288.500(2), except that agreements are always required to be written per Section 10.

**Commented [K53]:** Explicitly include parental and family leave.

o. Duration of collective bargaining agreements.

p. Safety of the employee.

q. Procedures for reduction or addition in work force.

r. *Policies for transfer or reassignment of employees.*

s. *The methods used for determining the classification, titles, and job descriptions of professional employees in the bargaining unit.*

t. *Facilities for meetings with students for employees with teaching or advising duties.*

u. *The methods used for evaluating professional employees in annual evaluations and for promotion and tenure reviews.*

**Commented [K54]:** Compare NRS 288.150(2)(u).

**Commented [K55]:** Compare NRS 288.150(2)(k).

**Commented [K56R55]:**

**Commented [K57]:** Compare NRS 288.150(2)(t).

3. *Each collective bargaining agreement negotiated pursuant to this chapter must include, without limitation, a procedure to resolve grievances which applies to all professional employees in the bargaining unit, and culminates in final and binding arbitration. Such a procedure:*

**Commented [K58]:** Mandatory grievance procedures from NRS 288.505(1)(a)

a. *Must be used to resolve all grievances relating to employment, including, without limitation, the administration and interpretation of the collective bargaining agreements, the applicability of any law, rule or regulation relating to the employment and appeal of discipline and other adverse personnel actions; and*

b. *May incorporate established shared governance mechanisms, including, without limitation, oversight by a faculty senate and peer review.*

**Commented [K59]:** Allows, but does not require, the agreement to use existing mechanisms for review of grievances as part of the process.

4. ~~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.

5. ~~3.~~ Except as modified in *an* collective bargaining agreement regarding the topics enumerated in paragraph ~~1~~-2 above, the Board of Regents, in accordance with its authority under Article 11, Section 4 of the Nevada Constitution *and NRS 396.110*, 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.

Section 14. Commencement of Negotiations; *Information Requests*

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

*2. Following the notification provided for in Section 11 of this chapter, the employee organization may request reasonable information concerning any subject matter included in the scope of mandatory bargaining which it deems necessary for and relevant to the negotiations. The information requested must be furnished without unnecessary delay. The information must be accurate and must be presented in a form responsive to the request and in the format in which the records containing it are ordinarily kept.*

**Commented [K60]:** Language on information requests from NRS 288.180(2)

Section 15. ~~Use of Mediator~~ *Mediation*

*1. Either party may request mediation if the parties do not reach a collective bargaining agreement.*

- a. Within 120 calendar days after the date on which the parties began negotiations; or*
- b. On or before any later date set by the agreement of the parties in writing.*

~~During the course of negotiations, the parties may mutually agree to utilize the services of a mediator to assist them in resolving any dispute.~~

*2. 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~~ the parties shall request a list of seven potential mediators who have a background *in collective bargaining for* postsecondary education *from the Federal Mediation and Conciliation Service*. The parties shall, within ~~three~~ *five* calendar 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~~*

**Commented [K61]:** Changes to this section follow NRS 288.570.

~~shall strike the first name.~~ *The party who will strike the first name must be determined by a coin toss.*

3. The mediator shall have the authority to schedule meetings between the parties. *The mediator shall bring the parties together as soon as possible after his or her appointment and shall attempt to settle each issue in dispute within 21 calendar days after his or her appointment or any later date set by the agreement of the parties.*

4. 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.

#### Section 16. **Arbitration**

1. *If the mediator appointed pursuant to section 15 determines his or her services are no longer helpful, or if the parties do not reach a collective bargaining agreement through mediation within 21 calendar days after the appointment of the mediator or on or before any later date set by agreement of the parties, the mediator shall discontinue mediation and the parties shall attempt to agree upon an impartial arbitrator.*

2. *If the parties do not agree upon an impartial arbitrator within 5 business days after the date on which mediation is discontinued pursuant to subsection 1 or on or before any later date set by agreement of the parties, the parties shall request from the Federal Mediation and Conciliation Service a list of seven potential arbitrators with a background in collective bargaining in postsecondary education. Within five business days after receipt of the list of arbitrators, the parties shall select an arbitrator from the list by alternately striking one name until the name of only one arbitrator remains, and that arbitrator must hear the dispute in question. The party who will strike the first name must be determined by a coin toss.*

3. *The arbitrator shall begin arbitration proceedings within 15 calendar days after the appointment or any later date set by agreement of the parties.*

4. *The arbitrator may set the rules and procedures for arbitration. During arbitration, the parties retain their respective duties to negotiate in good faith.*

**Commented [K62]:** Selection of arbitrator adapted from 288.575.

*5. The arbitrator may administer oaths or affirmations and take testimony. Both parties shall cooperate in providing witnesses and documentation at the request of the arbitrator.*

*6. The arbitrator shall render a decision within 15 calendar days after beginning arbitration proceedings or any later date set by agreement of the parties.*

*7. The System and the exclusive representative shall each pay one-half of the cost of arbitration; however, each party shall pay its own costs incurred in the preparation and presentation of its case.*

**Section 17. Decision of the Arbitrator**

*1. For issues in dispute after arbitration proceedings are held pursuant to section 16, the arbitrator shall incorporate either the final offer of the System or the final offer of the bargaining agent into his or her decision. The decision of the arbitrator must be limited to a selection of one of the two final offers of the parties. The arbitrator shall not revise or amend the final offer of either party on any issue.*

*2. To determine which final offer to incorporate into his or her decision, the arbitrator shall assess the reasonableness of:*

*a. The position of each party as to each issue in dispute; and*

*b. The contractual terms and provisions contained in each final offer.*

*3. In assessing reasonableness pursuant to subsection 10, the arbitrator shall:*

*a. Compare the salaries, wages, hours and other terms and conditions of employment for the professional employees within the bargaining unit with the salaries, wages, hours and other terms and conditions of employment for other employees performing similar services and for other employees generally:*

*(1) In public employment in comparable communities or institutions; and*

*(2) In private employment in comparable communities or institutions;*

*and*

*b. Consider, without limitation:*

*(1) The financial ability of the member institution or or unit of the system to pay the costs associated with the proposed collective bargaining agreement,*

**Commented [K63]:** Adapted from NRS 288.580.

**Commented [K64]:** The arbitrator must choose the final offer of one party or the other, not split the difference. The theory behind this method is that it encourages both parties to put forward reasonable proposals, rather than exaggerated requests as a bargaining strategy.

*with due regard for the primary obligations of the member institution or unit of the system to provide instruction, research, and public services.*

*(2) The average prices paid by consumers for goods, services, and housing in the geographic locations where the professional employees work; and*

*(3) Such other factors as are normally or traditionally used as part of collective bargaining, mediation, arbitration, or other methods of dispute resolution to determine the wages, hours, and other terms of employment for professional employees in public or private employment.*

**4. The decision of the arbitrator is final and binding upon the parties.**

**Commented [K65]:** NRS 288.580(4). Binding arbitration gives finality to the process in a timely manner and limits the potential for litigation to very narrow circumstances per the Uniform Arbitration Act (NRS chapter 39).

**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.~~

**Commented [K66]:** Arbitration replaces the fact finding method, following NRS 288 for state classified employees.

~~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.~~

#### 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 with like or similar qualifications, skills, training and experience performing the same or similar work under the same or similar working conditions in comparable institutions;~~

~~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.~~

**Commented [K67]:** Replaced by new section 17, Decision of the Arbitrator.



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.~~

**Commented [K68]:** The arbitration provisions eliminate the possibility of a deadlock.

Section ~~19-18~~. 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.
3. The Board of Regents acknowledges that the facts noted above must also lead to the conclusion that it would be contrary to public policy for the Board of Regents to prohibit its employees to work by virtue of a "lockout" and pledges that no "lockout" shall occur. However, if any employee is unable to work because equipment or facilities are not available due to a strike, work stoppage, or slowdown by any other employees, such inability to work shall not be deemed a lockout under the provisions of this section. In the event of a lockout the

System shall be liable to the employee organization for reasonable damages. In no event shall these damages exceed the wages which would have been earned had the employees not been locked out.

#### Section ~~20-19~~. Injunctions

If a strike occurs or is threatened against the System, the System may apply to a court of competent jurisdiction to enjoin such strike. The application shall set forth the facts constituting the strike or threat to strike.

#### Section ~~21-20~~. **Violations**

If a strike or violation is commenced or continued in violation of a court order issued pursuant to Section ~~20-19~~, the System may, in conformity with due process as specified in a collective bargaining agreement, if such collective bargaining agreement exists, or in conformity with the NSHE Code if a collective bargaining agreement is not in existence:

1. Dismiss all or any of the employees who participate in such strike or violation;
2. Cancel the contracts of employment of all or any of the employees who participate in such strike or violation;
3. Cancel any existing collective bargaining agreement with the employee organization participating, or whose members are participating, in such strike or violation and refuse to bargain or negotiate with such organization until a new election has been held in conformity with this chapter.
4. In the case of any strike, slowdown, or other suspension of work not authorized by the employee organization, its officers or agents, the Board of Regents declares that such violation shall not cause the employee organization, its officers or agents, to be liable for damages; provided the employee organization complies fully with the following:

a. ~~The employee organization's obligation to take action shall commence immediately~~ upon receipt of *a written* notice from the Chancellor *charging* that a violation *of the regulations of this chapter by named professional employees who are members of the employee organization or members of a bargaining unit for which the employee association is the exclusive representative* has occurred.

b. ~~Immediately upon receipt of~~ *Within seven calendar days of receiving* such notice the

**Commented [K69]:** Strikes by public employees in Nevada are illegal per NRS 288.700-715. However, this section goes beyond the statute in punishing an employee organization or making it responsible for ending a strike even if the organization has not been involved in any strike activity. The changes to this section are intended to preserve the due process promised in the preamble.

**Commented [K70]:** Until disciplinary due process has been completed, the violation is only an allegation. The employee organization can only be expected to communicate with its own mediators or members of its bargaining unit, and cannot be responsible for determining who is alleged to have committed a violation.

**Commented [K71]:** "Immediately" is an impossible standard for actions that may take time to complete.

responsible employee organization representative shall ~~immediately~~ notify in writing those employees *alleged to be* responsible for or participating in such violation, ~~and also talk with those same employees,~~ stating to them that

- (1) ~~their action is~~ *actions* in violation of ~~these regulations, subjecting the regulations of this chapter may subject~~ them to discharge or discipline;
- (2) the employee organization will not oppose ~~their~~ discharge or discipline *of employees for actions in violation of the regulations of this chapter*;
- (3) the employee organization has not authorized the strike, slowdown, or suspension of work and does not approve or condone it; *and*
- (4) the employee organization instructs the employees to return to work immediately.

5. If the due process hearing procedures of a collective bargaining agreement or the NSHE Code provide for the participation of professional employees of the collective bargaining unit involved and, if, as a result of the strike or violation, such professional employees neglect, refuse or fail to participate in such due process hearing procedures, the System may utilize professional employees from any institution of the System to participate in such due process hearing procedures.

#### Section ~~22~~ 21. Suspension of Striking Employees

If a strike occurs in violation of this chapter, the System may immediately suspend from its payroll all participating employees. Such suspension shall be in conformity with due process. Such payroll moneys shall not be recoverable by the employees involved but shall revert to the governmental fund or accounts from which they are derived.

#### Section ~~23~~ 22. System Prohibitions

It is prohibited for the System or its designated representatives to:

1. Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter;
2. Dominate, interfere, or assist in the formation, ~~or~~ administration, *maintenance, or activities* of any employee organization;

**Commented [K72]:** While the employee organization can send written notices to named employees, it may be impractical or impossible to "talk" with them.

3. Discriminate in regard to hiring or any term or condition of employment in order to encourage or discourage membership in any employee organization;
4. Discharge or otherwise discriminate against any employee because the employee signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because he has formed, joined or chosen to be represented by any employee organization;
5. Refuse to bargain collectively in good faith with an employee organization as required by this chapter. *Bargaining collectively includes the entire bargaining process, including mediation and arbitration, provided for in this chapter; or*
6. *Fail to provide information as required by paragraph 2 of Section 14 of this chapter.*

**Commented [K73]:** Added language adapted from NRS 288.270(1)(e,g)

#### Section ~~24~~ 23. Employee Prohibitions

It is prohibited for an employee of the System, or for an employee organization or its designated agents to:

1. Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter;
2. Cause or attempt to cause the System or any of its representatives to discriminate in regard to hiring or any term or condition of employment in order to encourage or discourage membership in any employee organization;
3. Refuse to bargain collectively in good faith with the System as required by this chapter if the employee organization is designated as the bargaining agent for the unit. *Bargaining collectively includes the entire bargaining process, including mediation and arbitration, provided for in this chapter; or*
4. Discriminate against any employee because of membership or non-membership in any employee organization.

**Commented [K74]:** Added language from NRS 288.270(2)(b).