

Lincoln, Nebraska
April 9, 2021

The Board of Regents of the University of Nebraska met on April 9, 2021, at 9:00 a.m. at the Nebraska Innovation Campus Conference Center, in a publicly convened session, the same being open to the public and having been preceded by advance publicized notice, a copy of which are attached to the minutes of this meeting as Attachment 1 and Attachment 2 (pages 74-94).

In compliance with the provisions of *Neb. Rev. Stat.* § 84-1411, printed notice of this meeting was sent to each member of the Board and was posted on the front of the first floor entrance of Varner Hall. In addition, copies of such notice were sent to the Lincoln Journal Star, Omaha World Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, and the Lincoln office of the Associated Press as follows: March 29, 2021, a notice containing amendments to Chapter IV, Sections 3.4.4, 4.4.1, and 4.4.5 of the Bylaws of the Board of Regents was sent to the above groups and posted in the first floor lobby of Varner Hall; April 2, 2021, a notice of this meeting was sent to the above groups and posted in the first floor lobby of Varner Hall.

Regents present:

Timothy Clare
Paul Kenney, Chair
Elizabeth O'Connor
Bob Phares, Vice Chair
Jim Pillen
Robert Schafer
Jack Stark
Barbara Weitz
Max Beal, University of Nebraska at Kearney
Veronica Miller, University of Nebraska-Lincoln
Thomas Schroeder, University of Nebraska Medical Center
Jabin Moore, University of Nebraska at Omaha

University officials present:

Walter E. Carter, President
Susan M. Fritz, Executive Vice President and Provost
Stacia L. Palser, Interim Corporation Secretary
Jeffrey P. Gold, Chancellor, University of Nebraska Medical Center and
University of Nebraska at Omaha
Ronnie D. Green, Chancellor, University of Nebraska-Lincoln
Douglas A. Kristensen, Chancellor, University of Nebraska at Kearney
Michael J. Boehm, Vice President for Agriculture and Natural Resources
Christopher J. Kabourek, Vice President for Business and Finance | CFO
Heath M. Mello, Vice President for External Relations
James P. Pottorff, Vice President and General Counsel

I. CALL TO ORDER

II. ROLL CALL

The Board convened at 9:00 a.m. at the Nebraska Innovation Campus Conference Center, 2021 Transformation Drive, Lincoln, Nebraska. Attendance is indicated above.

III. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS

Motion Moved by Clare and seconded by Phares to approve the minutes and ratify the actions of the regularly scheduled meeting on February 12, 2021.

Action Student Opinion: Voting Aye: Miller, Moore, Schroeder, and Beal. Voting Aye: Kenney, O'Connor, Phares, Pillen, Schafer, Stark, Weitz, and Clare. Motion carried.

Chairman Kenney announced the location of the Notice of Meeting and Open Meetings Act.

IV. PRESENTATIONS

Regent Kenney acknowledged UNL student Kaela Meyer for her heroic actions in using her CPR skills to save the life of a fellow Nebraskan.

2021 Legislative Session Update, Speaker Mike Hilgers
Speaker Hilgers provided his perspective on the current legislative session and a summary of his vision for the State as Speaker of the Legislature.

2020 Presidential Medal of Service – Agriculture Builders of Nebraska, Inc.
Agriculture Builders of Nebraska, Inc. was presented with the 2020 Presidential Medal of Service for its advocacy and support of the University of Nebraska. The award was accepted by Homer Buell, President.

V. KUDOS

Regent Beal presented a KUDOS award to Jami Koester, Office Associate for the Departments of Cyber Systems and Industrial Technology at the University of Nebraska at Kearney.

Regent Miller presented a KUDOS award to Jeff Burdic, Assistant Director, Business Advising and Student Engagement in the College of Business at the University of Nebraska-Lincoln.

Regent Weitz presented a KUDOS award to Lisa Muschall, Director of Administration and Operations in the College of Nursing at the University of Nebraska Medical Center.

Regent O'Connor presented a KUDOS award to Lori Arias, Associate Director of International Advising for the International Programs Office at the University of Nebraska at Omaha.

VI. RESOLUTIONS

Regent Phares presented the following resolution

WHEREAS, Max Beal has served with distinction as a member of the University of Nebraska Board of Regents and President of the Associated Students of the University of Nebraska at Kearney; and

WHEREAS, Regent Beal has interacted with members of the Board of Regents and University administration with maturity and professionalism, and his input has been appreciated and highly valued; and

WHEREAS, through sound, effective leadership, Regent Beal has established trust and holds the respect of UNK students and faculty; and

WHEREAS, UNK's leadership team has respected and relied upon Regent Beal's honest and fair representation of the student voice, his advocacy for international and diverse student populations, his support for the UNK's Veteran Student Organization, and his promotion of the importance of every student to the campus community and culture; and

WHEREAS, Regent Beal has been a driving force behind prioritizing Fraternity and Sorority life at UNK; and

WHEREAS, Regent Beal has contributed immensely to address student challenges brought by the world-wide pandemic, including advocating for a Pass/No Pass grading option for the Spring 2020 semester; a safe, in-person reopening with thoughtful online considerations; a reduction in student fees for the Fall 2021 semester for non-functioning services such as athletics; and flexibility regarding campus parking; and

WHEREAS, Regent Beal has made a profound impact on the University of Nebraska at Kearney as a role model, as a young man with outstanding work ethic and high standards, and as a leader;

NOW, THEREFORE, BE IT RESOLVED, that the University of Nebraska Board of Regents expresses its most sincere appreciation for the exemplary contributions of Regent Max Beal during his term of office and wishes him well in the promising future that awaits him.

Regent Clare presented the following resolution

WHEREAS, Student Regent Veronica ("Roni") Miller has served with distinction as a member of the University of Nebraska Board of Regents and as President of the Association of Students of the University of Nebraska (ASUN) for the 2020-2021 term; and

WHEREAS, Regent Miller worked with administrators and decision-makers to ensure a safe return to campus and in-person instruction through leadership on the University of Nebraska-Lincoln (UNL) Forward to Fall Committee and COVID-19 Task Force by advocating for flexible student accommodations and improved academic policies; and

WHEREAS, Regent Miller has served as a member of the System Title IX Committee, UNL Collaborative on Sexual Misconduct, and as a co-chair of the UNL Student Policy and Procedures Committee on Sexual Misconduct in an effort to reduce sexual and gender violence among college students; and

WHEREAS, under Regent Miller's leadership, ASUN passed resolutions and submitted testimony in support of numerous bills in the Nebraska legislature that directly benefit the

University of Nebraska, including testifying on behalf of all University of Nebraska students on LB 588 regarding deferred maintenance; and

WHEREAS, Regent Miller has prioritized diversity, inclusion, and equity related projects within ASUN Student Government and across the University system, in special partnership with UNL's Black Student Union and other underrepresented students; and

WHEREAS, Regent Miller has focused on increased transparency and improved communication efforts with UNL leaders through town halls, listening sessions, and other feedback-centered events, especially related to key student concerns; and

WHEREAS, Regent Miller served on the Board of Regents Business and Finance Committee, working closely with Vice President for Business and Finance and CFO Chris Kabourek on an Environmental, Social, and Governance (ESG) policy amendment to the Board of Regents bylaws;

NOW, THEREFORE, BE IT RESOLVED, that the University of Nebraska Board of Regents expresses sincere appreciation for Regent Roni Miller's exemplary service and effective leadership as a member of the Board, and wishes her well in all future endeavors.

Regent Schafer presented the following resolution

WHEREAS, Thomas ("Tom") Schroeder has served as a member of the University of Nebraska Board of Regents and as President of the University of Nebraska Medical Center Student Senate during the 2020-2021 term; and

WHEREAS, Regent Schroeder represented himself, his institution and his fellow students with dignity and integrity during board meetings and events, and has served as a vocal and unwavering advocate for students throughout UNMC and the NU system; and

WHEREAS, during his time as a student at UNMC, Regent Schroeder and his fellow students, regents, family, faculty, staff, mentors and university leaders dealt with unprecedented challenges during a pandemic that brought economic and health anxiety, took learning off campus and into a virtual setting, and disrupted everyday life in ways large and small; and

WHEREAS, Regent Schroeder not only faced these challenges as an individual, but also took on leadership and support roles to ensure that we, and all of the individuals and communities that make up our university, make it through while continuing the momentum that is so crucial to our individual and shared success; and

WHEREAS, during his time as a student at UNMC, Regent Schroeder has carried out these leadership positions and responsibilities while balancing the demands of medical school and rotations; and

WHEREAS, Regent Schroeder helped lead UNMC's students in efforts related to divestment from fossil fuels, student advocacy to keep education affordable, anti-racism and community outreach, and supporting fellow students receiving COVID-19 vaccinations;

NOW, THEREFORE, BE IT RESOLVED, that the University of Nebraska Board of Regents expresses its sincere appreciation for Regent Tom Schroeder's dedicated service and effective leadership as a member of the board, and wishes him success in all of his future endeavors.

Regent Pillen presented the following resolution

WHEREAS, Jabin Moore has served with distinction as a member of the University of Nebraska Board of Regents and President of the University of Nebraska at Omaha Student Government for the 2020-21 term; and

WHEREAS, during his time as a student at UNO, Regent Moore has held multiple campus leadership positions beyond Student Government President and Regent while balancing the demands of a student and community leader; and

WHEREAS, in all of his leadership roles, especially as a member of the University of Nebraska Board of Regents, Regent Moore has actively listened and elevated the voices of his fellow students to inform decisions made by the Board of Regents; and

WHEREAS, Regent Moore, as President of the UNO Student Government, has worked hard to include diverse voices and welcomed divergent perspectives to improve not just himself, but the entire student experience at UNO; and

WHEREAS, during his term as President, Regent Moore led UNO's Student Government with kindness, integrity, and understanding even against the backdrop of a deadly global pandemic and social unrest; and

WHEREAS, through a commitment to inclusive leadership, a desire to better his community, and a thirst for justice, Regent Moore has gained the admiration and respect of UNO administration, faculty, staff, and students;

NOW, THEREFORE, BE IT RESOLVED, that the University of Nebraska Board of Regents commend Regent Jabin Moore for his outstanding service and his dedication to the University of Nebraska, and wish him success in all of his future undertakings.

Resolutions
Adopted

There being no objection, the above resolutions were approved and adopted by the general consent of the Board.

Regent Kenney recognized the outgoing Faculty Senate Presidents: Martonia Gaskill, Associate Professor, University of Nebraska at Kearney; Nicole Buan, Associate Professor, University of Nebraska-Lincoln; Brandy Clarke, Assistant Professor and Licensed Psychologist, University of Nebraska Medical Center; and Elliott Ostler, Professor, University of Nebraska at Omaha.

VII. HEARINGS

Amend Sections 3.4.4, 4.4.1 and 4.4.5, and Chapter IV, of the Bylaws of the Board of Regents of the University of Nebraska.

VIII. PRESIDENT’S REMARKS

IX. PUBLIC COMMENT

Motion Regent Stark moved that the portion of the Standing Rules which limit speakers to 5 minutes per person and the total time for public comment to thirty minutes for all speakers, and further moved that the Chair of the Board be authorized to preside over the public comment portion of this meeting and that the processes for public comment at this meeting conform to the meeting notice provided to the public one week ago. Seconded by Weitz.

Action Student Opinion: Voting Aye: Moore, Schroeder, Beal, and Miller. Voting Aye: O’Connor, Phares, Pillen, Stark, Weitz, Clare, and Kenney. Absent: Schafer. Motion carried.

Jennifer Jirak-Brungardt spoke on the topic of COVID restrictions for fall.

Annie Goodman spoke on the topic of the Regent’s Scholarship policies for inter-campus students.

Anna Krause spoke on the topic of Divestment from fossil fuels.

Cameron Raszler spoke on the topic of Divestment from fossil fuels.

Abigail Ridder spoke on the topic of Divestment from fossil fuels.

Kat Woerner spoke on the topic of Divestment from fossil fuels.

Connor McFayden spoke on the topic of Divestment from fossil fuels.

Amelia Long spoke on the topic of Divestment from fossil fuels.

Aila Ganic spoke on the topic of Divestment from fossil fuels.

Rohan Thakker spoke on the topic of Divestment from fossil fuels.

Madison Whitney spoke on the topic of Divestment from fossil fuels.

Brittni McGuire spoke on the topic of Divestment from fossil fuels.

X. UNIVERSITY CONSENT AGENDA

A. ACADEMIC AFFAIRS

B. BUSINESS AND FINANCE

XI. UNIVERSITY ADMINISTRATIVE AGENDA

A. ACADEMIC AFFAIRS

University of Nebraska

- Motion Moved by Phares and seconded by Weitz to approve item XI-A-1
- XI-A-1 Approve the attached amendments to Section 3.4.4 of the *Bylaws of the Board of Regents*, related to assignment of duties, and Chapter IV of the *Bylaws of the Board of Regents*, related to rights and responsibilities of professional staff
- Action Student Opinion: Voting Aye: Schroeder, Beal, Miller, and Moore. Voting Aye: Phares, Pillen, Schafer, Stark, Weitz, Clare, Kenney, and O'Connor. Motion carried.
- Motion Moved by Phares and seconded by Pillen to approve item XI-A-2
- XI-A-2 Approve the attached amendments to Sections 4.4.1 and 4.4.5 of the *Bylaws of the Board of Regents*, related to Extension Personnel
- Action Student Opinion: Voting Aye: Beal, Miller, Moore, and Schroeder. Voting Aye: Pillen, Schafer, Stark, Weitz, Clare, Kenney, and Phares. Abstain: O'Connor. Motion carried.

University of Nebraska-Lincoln

- Motion Moved by Clare and seconded by Stark to approve item XI-A-3
- XI-A-3 Approval to eliminate the Bachelor of Arts (BA) and Bachelor of Science (BS) in Medieval and Renaissance Studies in the College of Arts and Sciences at the University of Nebraska-Lincoln (UNL)
- Action Student Opinion: Voting Aye: Miller, Moore, Schroeder, and Beal. Voting Aye: Schafer, Stark, Weitz, Clare, Kenney, O'Connor, Phares, and Pillen. Motion carried.
- Motion Moved by Clare and seconded by Miller to approve item XI-A-4
- XI-A-4 Approval to create an 18-credit hour Animal Science Management Undergraduate Certificate in the Department of Animal Science in the College of Agricultural Sciences and Natural Resources at the University of Nebraska-Lincoln (UNL)
- Action Student Opinion: Voting Aye: Moore, Schroeder, Beal, and Miller. Voting Aye: Stark, Weitz, Clare, Kenney, O'Connor, Phares, Pillen, and Schafer. Motion carried.
- Motion Moved by Schroeder and seconded by Phares to approve item XI-A-5
- XI-A-5 Approval to create the Bachelor of Science (BS) in Plant and Landscape Systems in the Department of Agronomy and Horticulture in the College of Agricultural Sciences and Natural Resources at the University of Nebraska-Lincoln (UNL)
- Action Student Opinion: Voting Aye: Schroeder, Beal, Miller, and Moore. Voting Aye: Weitz, Clare, Kenney, O'Connor, Phares, Pillen, Schafer, and Stark. Motion carried.

- Motion Moved by Schafer and seconded by Clare to approve item XI-A-6
- XI-A-6 Approval to create the Bachelor of Science in Business Administration (BSBA) in Law and Business in the College of Business at the University of Nebraska-Lincoln (UNL)
- Action Student Opinion: Voting Aye: Beal, Miller, Moore, and Schroeder. Voting Aye: Clare, Kenney, O'Connor, Phares, Pillen, Schafer, Stark, and Weitz. Motion carried.
- University of Nebraska Medical Center
- Motion Moved by Phares and seconded by Pillen to approve item XI-A-7
- XI-A-7 Approval to create a Master of Science (MS) in Biostatistics to be administered by Graduate Studies and the Department of Biostatistics in the College of Public Health at the University of Nebraska Medical Center (UNMC)
- Action Student Opinion: Voting Aye: Miller, Moore, Schroeder, and Beal. Voting Aye: Kenney, O'Connor, Phares, Pillen, Schafer, Stark, Weitz, and Clare. Motion carried.
- University of Nebraska Medical Center and University of Nebraska at Omaha
- Motion Moved by Stark and seconded by Miller to approve item XI-A-8
- XI-A-8 Approval to establish the Center for Biomedical Informatics Research and Innovation (CBIRI) to be jointly administered by the University of Nebraska Medical Center (UNMC) and the University of Nebraska at Omaha (UNO)
- Action Student Opinion: Voting Aye: Moore, Schroeder, Beal, and Miller. Voting Aye: O'Connor, Phares, Pillen, Schafer, Stark, Weitz, Clare, and Kenney. Motion carried.
- University of Nebraska at Omaha
- Motion Moved by Moore and seconded by Clare to approve item XI-A-9
- XI-A-9 Approval to establish the Samuel Bak Academic Learning Center to be administered by the Office of Academic Affairs at the University of Nebraska at Omaha (UNO)
- Action Student Opinion: Voting Aye: Schroeder, Beal, Miller, and Moore. Voting Aye: Phares, Pillen, Schafer, Stark, Weitz, Clare, Kenney, and O'Connor. Motion carried.
- Motion Moved by Weitz and seconded by Schafer to approve item XI-A-10
- XI-A-10 Approval to create the Bachelor of Science (BS) in Pharmaceutical Sciences in the Department of Chemistry in the College of Arts and Sciences at the University of Nebraska at Omaha (UNO)
- Action Student Opinion: Voting Aye: Beal, Miller, Moore, and Schroeder. Voting Aye: Pillen, Schafer, Stark, Weitz, Clare, Kenney, O'Connor, and Phares. Motion carried.

B. BUSINESS AND FINANCE

University of Nebraska

- Motion Moved by Miller and seconded by Moore to approve item XI-B-1
- XI-B-1 Approve the attached amendments to *Board of Regents Policy* RP-6.6.4, Investment of Endowment and Similar Funds
- Action Student Opinion: Voting Aye: Miller, Moore, Schroeder, and Beal. Voting Aye: Schafer, Stark, Weitz, Clare, Kenney, O'Connor, Phares, and Pillen. Motion carried.
- Motion Moved by Stark and seconded by Phares to approve item XI-B-2
- XI-B-2 Approval of Facilities Program Bonds authorized pursuant to the University of Nebraska Facilities Program
- Action Student Opinion: Voting Aye: Moore, Schroeder, Beal, and Miller. Voting Aye: Stark, Weitz, Clare, Kenney, O'Connor, Phares, Pillen, and Schafer. Motion carried.

University of Nebraska-Lincoln

- Motion Moved by Pillen and seconded by O'Connor to approve item XI-B-3
- XI-B-3 Approve execution of a Standard Form Guaranteed Maximum Price (GMP) Contract Amendment to the Construction Manager at Risk (CMR) contract for North Stadium Expansion at the University of Nebraska-Lincoln (UNL)
- Action Student Opinion: Voting Aye: Schroeder, Beal, Miller, and Moore. Voting Aye: Weitz, Kenney, O'Connor, Phares, Pillen, Schafer, and Stark. Abstain: Clare. Motion carried.
- Motion Moved by Weitz and seconded by Beal to approve item XI-B-4
- XI-B-4 Approve execution of a Standard Form Construction Agreement for First Phase of Outdoor Track Replacement at the University of Nebraska-Lincoln (UNL)
- Action Student Opinion: Voting Aye: Beal, Miller, Moore, and Schroeder. Voting Aye: Clare, Kenney, O'Connor, Phares, Pillen, Schafer, Stark, and Weitz. Motion carried.
- Motion Moved by Phares and seconded by Schafer to approve item XI-B-5
- XI-B-5 Approve a budget increase for Kiewit Hall at the University of Nebraska-Lincoln (UNL)
- Action Student Opinion: Voting Aye: Miller, Moore, Schroeder, and Beal. Voting Aye: Kenney, O'Connor, Phares, Pillen, Schafer, Stark, Weitz, and Clare. Motion carried.
- Motion Moved by Stark and seconded by Clare to approve item XI-B-6
- XI-B-6 Approve three interlocal agreement templates to serve as operational agreements between the University and each of Nebraska's 93 counties for the provision of extension services

- Action Student Opinion: Voting Aye: Moore, Schroeder, Beal and Miller. Voting Aye: Phares, Pillen, Schafer, Stark, Weitz, Clare, and Kenney. Abstain: O'Connor. Motion carried.
University of Nebraska Medical Center
- Motion Moved by Schroeder and seconded by Moore to approve item XI-B-7
- XI-B-7 Approve the acquisition of the property located at 4524 Farnam Street and 4602 Farnam Street, Omaha, Nebraska for the University of Nebraska Medical Center
- Action Student Opinion: Voting Aye: Schroeder, Beal, Miller, and Moore. Voting Aye: Phares, Pillen, Schafer, Stark, Weitz, Clare Kenney, and O'Connor. Motion carried.
- Motion Moved by Beal and seconded by Schroeder to approve item XI-B-8
- XI-B-8 Approve up to \$5.0 million from the University's Internal Loan Program to implement high priority critical planning and engineering support efforts for an RFQ/RFP for the Central Utility Plant, West Utility Plant and upgrades for the Building Management Systems to evaluate capacity increase needs, improve reliability, and address high priority needs to meet campus growth and provide increased cyber security protection of multiple building systems
- Action Student Opinion: Voting Aye: Beal, Miller, Moore, and Schroeder. Voting Aye: Pillen, Schafer, Stark, Weitz, Clare, Kenney, O'Connor, and Phares. Motion carried.
- Motion Moved by Pillen and seconded by Stark to approve item XI-B-9
- XI-B-9 Approve the Amended and Restated Institutional Affiliation Agreement between the University, on behalf of the University of Nebraska Medical Center's College of Medicine, and Children's Hospital & Medical Center
- Action Student Opinion: Voting Aye: Miller, Moore, Schroeder, and Beal. Voting Aye: Schafer, Stark, Weitz, Clare, Kenney, O'Connor, Phares, and Pillen. Motion carried.
University of Nebraska at Omaha
- Motion Moved by Miller and seconded by Moore to approve item XI-B-10
- XI-B-10 Accept a gift from Samuel Bak of 512 paintings to establish the proposed Bak Museum at the University of Nebraska at Omaha
- Action Student Opinion: Voting Aye: Moore, Schroeder, Beal, and Miller. Voting Aye: Stark, Weitz, Clare, Kenney, O'Connor, Phares, Pillen, and Schafer. Motion carried.
- C. FOR INFORMATION ONLY**
- D. REPORTS**
- XI-D-1 Quarterly Personnel Report for the period October through December 2020
- XI-D-2 Change to the Spring 2022 Academic Calendar for University of Nebraska (NU) Campuses

- XI-D-3 Naming of Room S-111 in the College of Law's Marvin and Virginia Schmid Clinic Building "The Koley Jessen Interview Room" pursuant to *Board of Regents Policy* RP-6.2.7.3.b
- XI-D-4 Naming of the Exterior Vegetable Garden at Munroe-Meyer Institute for Genetics and Rehabilitation Facility at the University of Nebraska Medical Center
- XI-D-5 Quarterly report of Gifts, Grants, Contracts and Bequests
- XI-D-6 Quarterly Status of Capital Construction Projects
- XI-D-7 Bids and Contracts
- XI-D-8 Fund N Holdings as of December 31, 2020

Chairman Kenney accepted the reports on behalf of the Board.

XII. ADDITIONAL BUSINESS

XIII. ADJOURNMENT

There being no further business, the meeting was adjourned by Chairman Kenney at 11:50 a.m.

Respectfully submitted,

Stacia L. Palser
Interim Corporation Secretary

Paul R. Kenney, Chair

ATTACHMENT 1



NOTICE OF MEETING

Notice is hereby given that the Board of Regents of the University of Nebraska will meet in a publicly convened session on Friday, April 9, 2021, at 9:00 a.m. at the Nebraska Innovation Campus Conference Center, 2021 Transformation Drive, Lincoln, Nebraska.

In accordance with *Board of Regents Bylaw 1.11, Amendments to the Bylaws*, notice is hereby given that at the above-described meeting, amendments to Chapter IV, Sections 3.4.4, 4.4.1, and 4.4.5 of the *Bylaws of the Board of Regents* shall be proposed as indicated in the attached agenda items.

An agenda of subjects not related to the proposed *Bylaws* amendment will be subsequently posted in accordance the law, the *Bylaws* and rules which govern the Board of Regents. When so posted, the full agenda for the meeting will be available for inspection in the office of the Corporation Secretary of the Board of Regents, Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska, or at <http://nebraska.edu/board/agendas-and-minutes.html>

A copy of this notice will be delivered to the Lincoln Journal Star, the Omaha World-Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, the Lincoln office of the Associated Press, members of the Board of Regents, and the President's Council of the University of Nebraska.

Dated: March 29, 2021

Stacia L. Palser
Interim Corporation Secretary
Board of Regents
University of Nebraska

Board of Regents

Varner Hall | 3835 Holdrege Street | Lincoln, NE 68583-0745 | 402.472.3906 | FAX: 402.472.1237 | nebraska.edu/regents

TO: The Board of Regents Addendum XI-A-1
Academic Affairs Committee

MEETING DATE: April 9, 2021

SUBJECT: Amendments to Section 3.4.4 of the *Bylaws of the Board of Regents*, related to assignment of duties, and Chapter IV of the *Bylaws of the Board of Regents*, related to rights and responsibilities of professional staff.

RECOMMENDED ACTION: Approve the attached amendments to Section 3.4.4 of the *Bylaws of the Board of Regents*, related to assignment of duties, and Chapter IV of the *Bylaws of the Board of Regents*, related to rights and responsibilities of professional staff.

PREVIOUS ACTION: February 12, 2021 – This item was presented to the Board of Regents for information only.

EXPLANATION: Administrators and faculty leaders have collaborated on amendments to the *Bylaws of the Board of Regents* to codify the process by which a faculty member may be placed on administrative leave and add due process rights for affected individuals.

The attached proposed amendments to the *Bylaws of the Board of Regents* would:

- Ensure consultation between the administrative officer and instructional staff member before the assignment of duties. (Section 3.4.4)
- Codify the process for placing an individual holding an academic appointment on administrative leave; add faculty committee consultation in cases of involuntary removal or reassignment; and add due process procedures for individuals whose appointment ends while on administrative leave. (Section 4.7)
 - Codify the process for placing an individual holding an academic appointment on leave based on mental health concerns, in compliance with the Americans with Disabilities Act (ADA). (Section 4.7.1.1)
- Harmonize references to Faculty Practice or Faculty Research Appointments; and reference the Academic Freedom and Tenure Committee's role in due process. (Section 4.7)
- Reference the Professional Conduct Committee's role in due process; codify the standard of proof; direct the Professional

Conduct Committee to draft rules or procedures in parallel language to the Grievance Committee and Academic Freedom and Tenure Committee; and direct University officers to give due consideration to the findings, interpretations, advice, or recommendations of the Professional Conduct Committee. (Section 4.16)

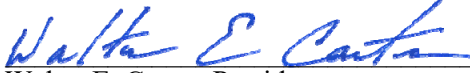
If approved by the Board, the above amendments to the *Bylaws of the Board of Regents* shall apply prospectively as of the date of approval.

These revisions are recommended for approval by the Academic Affairs Committee.

SPONSOR:

Susan M. Fritz, Ph.D.
Executive Vice President and Provost

RECOMMENDED:


Walter E. Carter, President
University of Nebraska

DATE:

March 5, 2021

PROPOSED BOARD OF REGENT'S BYLAW AMENDMENTS

- 3.4.4 **Assignment of Duties.** The service and teaching obligations for each full-time member of the instructional staff in any semester shall consist of such amounts of one or more of the types of services necessary for a successful University program, including teaching, research, directing and supervising research, advising or counseling, committee assignments, administrative duties, field work, extension activities, and other miscellaneous assignments as may be deemed reasonable in each instance by the department chair and Dean or director concerned, within standards approved by the Chancellor, the President, and the Board. In determining what duties to assign to an instructional staff member, the administrative officer will confer with and obtain input from the instructional staff member.

Members of the instructional staff other than those appointed primarily for research may be relieved of all or part of their teaching obligations for one or more semesters to pursue a program of research, if recommended by the appropriate research council, where established, and the Chancellor and the President, and approved by the Board. An instructional staff member who is relieved of all teaching obligations for one or more semesters to pursue a program of research shall be expected, as a rule, to resume regular teaching obligations after completion of the assigned program.

Employment by the University of members of the staff who are in the academic-year service class for non-instructional work during the summer vacation period shall be governed by the following:

- (a) Such employment shall be limited to not more than three months.
- (b) The monthly rate of remuneration for such employment shall not exceed one-ninth of the staff member's full-time remuneration during the preceding academic year.
- (c) Vacation for such employment shall be earned at the rate of two days per month, and cannot be carried beyond the summer period in which it is earned.

[Proposed for insertion before current Bylaw 4.7 (Termination of an Appointment by a Professional Staff Member: Time)]

4.7 Administrative Leave of Absence

4.7.1 **Applicability of Leave.** On occasion, an administrator may need to place an individual holding an academic appointment (defined herein as faculty members holding the academic rank of assistant instructor and above, or other formally approved ranks, as referenced in Section 3.1.1.1 of these *Bylaws*, as well as other academic staff members with the rank of postdoctoral research associate, research associate, research assistant, graduate assistant, graduate teaching assistant, or teaching fellow as referenced in Section 3.1.1.2), on a temporary, paid administrative leave of absence (hereinafter referred to in this section as “leave”) while the University reviews whether (a) the individual’s presence in the workplace presents a significant risk of harm to the individual, to others within the workplace, or to University property or facilities, or (b) such leave is necessary to protect University resources, prevent the destruction of evidence, or avoid continuing violation of a policy while an investigation is being conducted into whether that individual has engaged in misconduct in violation of University policy. Leave will not be imposed in a manner that is inconsistent with the principles of academic freedom or used as a means of disciplining individuals for exercising rights guaranteed under the First Amendment of the United States Constitution. Placement of an individual on leave may include a temporary reassignment or removal of duties and in any case shall not diminish the individual’s salary or benefits. By way of example, alleged conduct that potentially could give rise to a leave includes, without limitation, any conduct occurring on or off campus that reasonably can be construed as (a) acts of violence, threats of harm, or other conduct that places another person in reasonable fear of physical harm or injury, (b) conduct that could lead to the filing of criminal charges and may directly or indirectly hinder the individual’s ability to perform the duties of his or her appointment, such as acts of drug trafficking, human trafficking, or possession of child pornography, (c) inappropriate sexual behavior, including sexual harassment, unwelcomed sexual touching or sexual assault, against a student, colleague, or others, (d) a pattern of unwelcome, malicious, or offensive behavior occurring over a period of time that is meant to intimidate, threaten, humiliate, degrade, or ostracize a student, colleague, or others, commonly referred to as bullying, (e) research misconduct, (f) the misappropriation of institutional or grant funds or monies, or (g) other similarly egregious acts.

4.7.1.1 **Leave Based on Mental Health Concerns.** An administrator may place an individual holding an academic appointment on leave if the administrator has a reasonable belief, based on objective evidence, that the individual has a psychological or

mental health condition that is impairing the individual's ability to perform the essential functions of his or her appointment or is causing the individual to pose a threat to himself or herself or to others within the workplace.

An individual being placed on leave for this reason will be informed in the required notification that he or she needs to be evaluated by a mental healthcare provider of that individual's choice within a specified timeframe. This timeframe will be extended if the individual cannot be evaluated within that timeframe despite the best efforts of the individual to schedule a timely appointment. If the individual is unable or unwilling to schedule an appointment with a mental healthcare provider of that individual's choice within a reasonable time, the administrator may require that the individual be evaluated instead by a mental healthcare provider selected by the University before being allowed to return.

To be reinstated from the leave, the individual only is required to submit a certification from a healthcare provider stating that the individual can perform the essential functions of his or her appointment without posing a risk to himself or herself or to others within the University community. The certification does not need to specify the individual's underlying condition or diagnosis. Any certification received from the healthcare provider will be deemed a confidential medical record and may be disclosed only to appropriate University representatives who have a need to know.

A leave administered due to mental health concerns will be subject to the procedures and other provisions set forth within Section 4.7 and, therefore, will be evaluated by a faculty committee and potentially a threat assessment committee.

In addition, such leave will be administered in accordance with the Americans with Disabilities Act (ADA). Under ADA, an employee may be required to undergo a medical examination if that examination is job-related and consistent with business necessity. The federal courts, as well as the Equal Employment Opportunity Commission (EEOC), which is a federal agency responsible for administering and enforcing the civil rights laws against workplace discrimination, have found that this standard is met whenever an employer, relying on objective evidence, believes (a) that the employee's ability to perform his or her essential duties is being impaired by what may be a mental health condition or (b) the employee engages in conduct or behavior that calls into question whether the employee poses a significant risk of substantial harm to oneself or to others within the workplace.

If an individual with a disability requests an accommodation under the ADA, the appropriate University personnel will engage in the interactive process with that individual and the individual's healthcare provider to identify a reasonable and effective accommodation that will allow the individual to perform the essential functions of his or her position. In the absence of a safety risk or a disruption to the workplace, the individual should not be placed on leave during the interactive process.

4.7.2 **Procedures for Imposing Leave.** In determining whether to place an individual on leave, the appropriate administrator will first discuss the matter with the individual, whenever practicable, to determine whether a mutually acceptable resolution can be achieved. If a resolution cannot be achieved with the individual, the administrator will confer in advance, if practicable, with the appropriate elected faculty committee regarding the factual basis and the need for the individual's involuntary removal or reassignment. When consultation beforehand is not practicable, the administrator may proceed forward in imposing the leave with the understanding that contact with the appropriate faculty committee will occur as soon as practicable thereafter, but in no event less than forty-eight (48) hours after the leave is imposed. If the leave is being imposed due to a concern that the individual's presence in the workplace presents a significant risk of harm, the administrator also shall confer with and seek guidance from a threat assessment committee, if one exists, within that same timeframe. Both the faculty committee and the threat assessment committee should convene as quickly as possible to review the underlying circumstances giving rise to the leave and provide their respective recommendations regarding that leave to the administrator within ten (10) business days after being informed of the leave by the administrator. In the case of the faculty committee, the recommendation should address whether the leave is warranted, whether any of the terms or conditions of the leave should be modified, or whether some other action (such as initiation of formal disciplinary proceedings) should be taken instead. In the case of the threat assessment committee, the recommendation should focus on whether the conduct attributed to the individual presents a significant risk of harm or that individual, to others within the workplace, or the University property or facilities. Although not bound by the recommendations of either committee, the administrator will give due consideration to the recommendations of both committees and generally will defer to the assessment of risk rendered by the threat assessment committee. If the administrator's decision varies from the recommendation of either committee, the administrator will meet with the faculty committee for the purpose of explaining the basis for the variance. After meeting with the administrator, the faculty committee within its discretion may submit a letter to the administrator noting its disagreement with the decision and may share that letter with the affected individual. Whether the leave is imposed before or after the committee review, the administrator shall notify the affected individual in writing of the

leave when the leave is imposed. The written notification will include the starting date of the leave, a summary of the alleged conduct or events giving rise to the leave, any restrictions, modifications, or limitations as to access or duties during the leave, a summary of the process for responding to or addressing the allegations giving rise to the leave, and the circumstances under which the leave is anticipated to end. Expectations and evaluations of the individual's work performance while on leave must be compatible with the terms of the leave.

4.7.3 **Duration.** A leave will be limited in duration to the shortest period necessary to fulfill the purpose of the leave and will be subject to the reinstatement requirements set forth in Section 4.7.4 below. Accordingly, an individual who has been placed on leave due to significant risk of harm must be returned to duty as soon as the risk has been alleviated. Similarly, an individual who has been placed on leave for investigative purposes must be returned to duty upon the conclusion of a timely completed investigation. If the investigation results in the initiation of disciplinary proceedings against the individual, the administrator must file a complaint as specified in Section 4.15 (Academic Freedom and Tenure Committee) or Section 4.16 (Professional Conduct Committee) of these *Bylaws* and the ability and authority for the individual's continued removal from duty will be governed by the policies addressing those disciplinary proceedings.

4.7.4 **Reinstatement.** An individual placed on leave will be reinstated to his or her position upon the expiration of the leave. A leave cannot extend more than ninety (90) calendar days without additional review by a faculty committee and, if necessary, a threat assessment committee. If the administrator believes that the initial leave needs to be extended for a period of up to an additional ninety (90) calendar days, the administrator will follow the procedures specified in Section 4.7.2 for imposing a leave. The leave will be extended automatically if the administrator initiates formal disciplinary proceedings against the individual as specified in Section 4.15 (Academic Freedom and Tenure Committee) or Section 4.16 (Professional Conduct Committee) of these *Bylaws*.

4.7.4.1 **Expiration of Appointment While on Leave.** A leave imposed through the end of the appointment period is a termination for cause and requires the President or the Board of Regents to file a complaint with the Academic Freedom and Tenure Committee under Section 4.15.2(b) of these *Bylaws*. The period of the individual's appointment need not be extended beyond the appointment end date. If the individual would like to waive their right to a termination hearing, then they may do so in writing to the Chancellor and the faculty committee. If the individual does not respond to the complaint within twenty (20) calendar days, as specified

under Section 4.15.2(c)(3) of these *Bylaws*, they will be understood to have waived their right to a termination hearing. A twenty (20) calendar day extension to this deadline may be granted by the faculty committee if a request is made in writing to the faculty committee with reasons provided for the need for the extension.

The affected individual automatically will be assigned a faculty representative, who will offer guidance and advice to the individual regarding the individual's due process rights and responsibilities. The individual may elect to refuse any guidance or advice offered by the representative.

If the individual was placed on leave pending an investigation into allegations of sexual misconduct, the procedures established under the University's sexual misconduct policies must be followed instead.

4.7.5 Sanctions and Other Remedial Actions. If an investigation conducted while an individual is on leave indicates that the imposition of a sanction or other remedial action may be warranted, the appropriate administrator will inform the individual of the sanction or other remedial action that is being contemplated. Before any sanction or other remedial action is imposed, the individual will be afforded the opportunity to respond in writing to the proposed sanction or other remedial action. After giving due consideration to the individual's response, if any, the administrator may impose a lesser sanction or other remedial action. If the administrator determines that termination of the individual is warranted, the administrator must initiate and pursue the appropriate termination proceedings against the individual as set forth within Section 4.15 (Academic Freedom and Tenure Committee) of these *Bylaws*. If the administrator is seeking to impose a major sanction on the individual that falls short of termination (such as, without limitation, a suspension, a demotion in position, or a reduction in pay), the administrator must initiate and pursue the appropriate complaint proceedings against the individual as set forth within Section 4.16 (Professional Conduct Committee) of these *Bylaws*. For lesser sanctions or remedial actions (such as, without limitation, providing the individual with a letter of expectations or written reprimand), the individual may then seek to challenge the imposition of those lesser sanctions or remedial actions through the grievance procedures provided for within Section 4.14 of these *Bylaws*.

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4.1⁵⁴ **Academic Freedom and Tenure Committee**

4.1⁵⁴.1 **Academic Freedom and Tenure Committee: Creation.** The faculty governing agency of each major administrator unit shall create an

elected faculty Committee on Academic Freedom and Tenure, which shall have the powers specified in these *Bylaws*, and any other powers granted by the faculty governing agency and approved by the Board.

4.154.2 **Academic Freedom and Tenure Committee: Powers; Rules of Procedure.** The Committee established by Section 4.154.1 ([Academic Freedom and Tenure Committee: Creation](#)) shall have the following powers and rules of procedure:

- (a) The Committee shall consider any complaint filed by any member of the professional staff alleging any procedural or substantive grievance that constitutes an allegation that action taken, or threatened, violates the complainant's academic freedom or academic tenure.
- (b) The Committee shall consider a complaint filed against any member of the faculty seeking to terminate his or her Continuous Appointment, his or her Appointment for a Specific Term prior to the termination date stated in the appointment, or his or her Special Appointment as a faculty member prior to its termination date, or his or her Health Professions Faculty Appointment, or his or her Faculty Practice **and or** Faculty Research Appointment prior to the end of its stated term.
 - (1) The Board, or the President, shall have the authority to direct that proceedings under this subsection be instituted in the manner herein provided.
 - (2) Any Chancellor, Dean, director, or department chair, any Grievance Committee, or Professional Conduct Committee believing that there is reasonable cause to terminate a Continuous Appointment, an Appointment for a Specific Term, Health Professions Faculty Appointment, or a Faculty Practice **and or** Faculty Research Appointment prior to the end of its stated term, shall certify his, her, or its conclusion to that effect to the President, who shall determine if the complaint has sufficient merit to warrant investigation.
 - (i) In cases where the grounds for termination of a Continuous Appointment or an Appointment for a Specific Term are based in whole or in part on questions of professional competence, no such certification shall be made until the tenured members of the faculty member's school, division or department, or college in the absence of smaller units, have been consulted on the issues involving professional competence. Such consultation shall be effected through the appropriate administrator (department chair, school or division director, or Dean) calling on fourteen (14) days' notice a meeting of the tenured faculty of the unit for the specific purpose of discussing the faculty member's professional competence. Votes on substantive matters relating to the faculty

member's professional competence shall be by secret ballot. The report of such meeting, in the form of approved minutes containing a summary of the matters discussed and the votes taken, shall be forwarded by the administrator to the Chancellor for transmission to the President.

- (ii) In cases where the grounds for termination of a UNMC Health Professions Faculty Appointment, or a UNL Faculty Practice ~~and~~ or Faculty Research Appointment are based in whole or in part on questions of professional competence, no such certification shall be made until the faculty holding such a UNMC or UNL appointment who have received at least one promotion in academic rank while holding such an appointment and the tenured members of the faculty member's school, division or department, or college in the absence of small units, have been consulted on the issues involving professional competence. Such consultation shall be effected through the appropriate administrator (department chair, school or division director, or Dean) calling on fourteen (14) days' notice a meeting of the eligible consulting faculty of the unit for the specific purpose of discussing the faculty member's professional competence. Votes on substantive matters relating to the faculty member's professional competence shall be by secret ballot. The report of such meeting, in the form of approved minutes containing a summary of the matters discussed and votes taken, shall be forwarded by the administrator to the Chancellor for transmission to the President.
- (3) If the Board or President has determined that an investigation should be made, the President shall employ an attorney to make the investigation and report to the President if he or she believes reasonable cause exists for termination of the appointment. Investigation shall be made in such manner as the attorney so employed determines to be appropriate, but shall not involve a public hearing and shall be conducted on as confidential a basis as possible. The investigator shall prepare a report of the investigation and provide it to the President. The President shall provide a copy of said report to the Chancellor of the administrative unit involved. The report shall be considered a confidential communication. If the report recommends that no basis exists for terminating the appointment, and the Board accepts said report, no further proceedings shall be had with reference to terminating the appointment. If the Board does not accept said report, it may cause such further investigation to be made by such persons and in such manner as it deems appropriate and consistent with these *Bylaws*. If the report recommends that there is reasonable cause to terminate the appointment, the President

or the Board may order the attorney making the report to file a complaint with the Academic Freedom and Tenure Committee, and to take the affirmative with respect to producing evidence to support the complaint.

- (c) The procedure with reference to complaints filed under paragraphs (a), (b), or (b)(1), Section 4.154.2 (**Academic Freedom and Tenure Committee: Powers; Rules of Procedure**) shall be conducted in accordance with the following principles:
- (1) The complaint must be filed with the Committee and copy thereof served upon the person or persons charged in the complaint.
 - (2) The complaint shall state in concise terms the facts upon which it is based and the relief sought.
 - (3) The person(s) so charged shall have a period of twenty (20) days from the date of service of the complaint to file an answer in writing to the complaint. Copy of the answer must be served by such person(s) upon the attorney filing the complaint by regular United States mail with sufficient postage attached, properly addressed to said attorney, and mailed on or before twenty (20) days after filing the complaint.
 - (4) The Committee shall set the matter for hearing on as early a date as possible in order to permit the parties to reasonably prepare for the hearing.
 - (5) The person(s) charged shall be entitled to be represented by counsel at the expense of such person(s).
 - (6) The person(s) charged shall be entitled to be notified at least ten (10) days in advance of the hearing of the witnesses to be called by the attorney filing the complaint and of documents to be offered in evidence at the hearing, and the attorney conducting the hearing shall be obligated to provide such information within that time. The person(s) charged shall notify the attorney filing the complaint in writing at least five (5) days before the hearing of the witnesses to be called and documents to be offered in evidence at the hearing. No witnesses or documents not so listed shall be heard or received at the hearing, except in cases of surprise, or for the purpose of rebutting oral testimony of the other party, or for other justifiable cause found to exist by the Committee.
 - (7) Testimony shall be taken under oath **or affirmation**. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

- (8) The Committee may admit and give probative effect to evidence which processes probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence; provided, that any party may file with the Committee at least three (3) days before the hearing a written request that the rules of evidence followed by the District Courts in the State of Nebraska shall be applicable. If such written request is filed, the Committee shall notify the parties that the proceeding shall comply with the principles of law with respect to proceedings in the District Courts in Nebraska, and all counsel and parties shall be bound by such rules and standards of ethics and codes of trial conduct as are applied in the District Courts.
- (9) In the event any party to the proceedings desires the issuance of a subpoena, such subpoena shall be issued at the direction of the Corporation Secretary, and may be served in the manner provided for subpoenas in the Nebraska Court Rules of Discovery.
- (d) The Committee shall draft rules or procedures not inconsistent with these *Bylaws* for the prompt, orderly, and fair hearing of all complaints filed with the Committee. Said rules shall be submitted to the Board, and when approved or modified, after notice and hearing, shall constitute a part of the Rules of the Board.
- (e) The Committee shall submit to the Board the complete verbatim account of the hearing and all exhibits filed with the Committee, and report promptly to the Board and the staff members involved in the Committee's findings, conclusions, and recommended action that the Committee deems advisable.
- (f) The Board has power to make the final decision, but except as herein provided, the Board shall decide upon the basis of the evidence submitted to the Committee and the report of the Committee. Unless clearly erroneous, the findings of fact made by the Committee shall be accepted. The Board shall give the Committee's findings and conclusion due consideration, and shall take into account the fact that the Committee is a representative committee of the faculty and had the opportunity to see and hear the witnesses who testified personally before the Committee. ~~In the event that~~ If the Board's decision is at variance with the recommendations of the Committee, the Board shall detail the reasons in a written opinion, and copies shall be provided to the parties concerned and the Committee. Once the Board has rendered its decision, the matter shall not be subject to further review except by appropriate court proceedings.
- (g) The Board on its own motion may receive additional evidence at a public hearing, after notice to interested parties, in any case where the Board in its discretion determines that justice requires such

further hearing before the Board. Any person desiring to present additional evidence to the Board may apply to the Board for hearing before the Board. Before any such hearing is granted, showing shall be required that there is additional relevant evidence that has been discovered, or has developed, or which could not be produced at the prior hearing; that the same was not available at the prior hearing and could not have been discovered or produced by reasonable diligence.

- (h) In all proceedings before the Committee in which the termination of a Continuous Appointment, the termination of an Appointment for a Specific Term prior to its stated termination date, the termination of a Special Appointment of a faculty member prior to its termination date, or the termination of a Health Professions Faculty Appointment or a Faculty Practice ~~and or~~ Faculty Research Appointment prior to its stated termination date are in issue, the ~~burden of proof rests with the~~ University ~~shall have the burden of providing adequate cause for the termination a~~ and will be satisfied by the greater weight of the evidence in the record considered as a whole.
- (i) Prior to a decision by the Board, ~~the staff member involved an individual holding an academic appointment shall not be suspended from his or her duties relieved of~~ or assigned other duties unless ~~immediate harm to himself or herself, others, or property is threatened by his or her continuance an appropriate administrator can show that placing the individual on paid administrative leave is warranted based on one or more of the reasons enumerated in Section 4.7.1 and can show that the procedures set forth in Section 4.7.2 of these Bylaws for placing individuals on leave have been followed.~~ Salary will continue during any leave period ~~of suspension~~ and an assignment to other duties shall not diminish a staff member's salary.
- (j) The Committee shall have the power to consider a request filed by any person, board, or committee that alleges that a staff member should be subjected to sanctions less severe than appointment termination, and power to recommend in any case sanctions less severe than appointment termination where less severe sanctions seem appropriate.

4.1~~65~~ Professional Conduct Committee

- 4.1~~65~~.1 **Professional Conduct Committee: Power to Create.** Pursuant to power granted by these *Bylaws*, the faculty governing agency of each major administrative unit is empowered to create a Professional Conduct Committee, which shall have the functions and powers specified in Sections 4.1~~65~~.2 (Powers and Procedures of Professional Conduct Committee) and 4.1~~65~~.3 (Function of Professional Conduct

Committee), in addition to any other power granted by the faculty governing agency to the Committee pursuant to these *Bylaws*.

4.165.2 **Powers of Professional Conduct Committee.** A Professional Conduct Committee shall be empowered:

- (a) To receive complaints from any person charging a member of the professional staff, as defined in Section 3.1.1 (Professional Staff) of these *Bylaws*, with professional misconduct. This includes complaints filed by a University officer against an individual holding an academic appointment seeking a suspension or other major sanction less than termination as described in Section 4.7.5 of these *Bylaws*. Upon receiving a complaint, the Professional Conduct Committee shall ensure the allegations contained within the complaint are shared with the accused individual and the appropriate administrators. The individual shall answer the complaint in writing, and that response shall be provided to the person filing the complaint.
- (b) To investigate the facts relevant to the charge and to make factual determinations. Said investigation shall include advising the affected party of the charge, hearing his or her response, and considering any evidence produced by such party.
- (c) Conclude whether there are reasonable grounds to believe that the person against whom the charge is directed committed acts that amount to professional misconduct. The burden of proof rests with the complainant and will be satisfied by the greater weight of the evidence in the record considered as a whole.
- (d) To advise the person filing the charge, and any other appropriate person or groups, of the Committee's conclusion and factual findings.
- (e) To recommend to the appropriate University officer, or group, whether action should be taken with respect to the charge, and the nature of such action.
- (f) To recommend other or lesser sanctions less severe than appointment termination where whenever deemed appropriate by the Committee judges less severe sanctions appropriate.
- (g) The Committee shall draft rules or procedures not inconsistent with these *Bylaws* for the prompt, orderly, and fair consideration of all complaints filed with the Committee. Said rules shall be submitted to the Board, and when approved or modified, after notice and hearing, shall constitute a part of the Rules of the Board.
- (h) Prior to a decision by the University officer, an individual holding an academic appointment shall not be relieved of, or assigned other, duties unless an appropriate administrator can show that

placing the individual on paid administrative leave is warranted based on one of the reasons enumerated in Section 4.7.1 and can show that the procedures set forth in Section 4.7.2 of these *Bylaws* for placing individuals on leave have been followed. Salary will continue during any leave period and an assignment to other duties shall not diminish the individual's salary.

- 4.165.3 **Function of Professional Conduct Committee.** The Professional Conduct Committee's function shall be to ascertain facts, to interpret standards of professional conduct applicable to persons engaged in teaching, extension work, research, service, and administration at the University, to apply those standards to the facts, to advise other persons or groups whether a violation of professional conduct has occurred, and to recommend an appropriate sanction, if it concludes a violation has occurred. The Professional Conduct Committee does not have power to impose sanctions, and its findings of fact, interpretations of professional standards, advice, and recommendation are not binding. The Professional Conduct Committee shall not serve as a prosecutor of cases involving alleged violations of professional standards. The Committee acts only in an advisory capacity. Although not binding, the University officer responsible for rendering the final decision on the complaint, however, will give due consideration to any findings, interpretations, advice, or recommendations issued by the Professional Conduct committee. If the University officer's decision is at variance with the recommendations of the Professional Conduct Committee, the University officer shall detail the reasons in a written opinion that will be provided to the Professional Conduct Committee as well as to the affected individual. Once the University officer has rendered his or her decision, the matter shall not be subject to further review except through appropriate court proceeding.

TO: The Board of Regents Addendum XI-A-2
Academic Affairs Committee

MEETING DATE: April 9, 2021

SUBJECT: Amendments to Sections 4.4.1 and 4.4.5 of the *Bylaws of the Board of Regents*, related to Extension Personnel.

RECOMMENDED ACTION: Approve the attached amendments to Sections 4.4.1 and 4.4.5 of the *Bylaws of the Board of Regents*, related to Extension Personnel.

PREVIOUS ACTION: February 12, 2021 – This item was presented to the Board of Regents for information only.
October 3, 2018 – The Board of Regents amended Section 4.4.5 of the *Bylaws of the Board of Regents* regarding Extension Personnel.

EXPLANATION: Extension Educators are important members of the faculty of the University of Nebraska-Lincoln, helping fulfill the University’s mission in communities across Nebraska. The attached proposed amendments to the *Bylaws of the Board of Regents* would:

- Explicitly recognize Assistant Extension Educators, Associate Extension Educators, and Extension Educators as members of the University’s Professional Staff holding Special Appointments per Section 4.4.1 of the *Bylaws of the Board of Regents*.
- Extend the required notice of termination by rank. The notice of termination for Assistant Extension Educators would continue to be 90 days; the notice of termination for Associate Extension Educators would be extended from 90 days to 180 days; and the notice of termination for Extension Educators would be extended from 90 days to one year.
- Clarify the coordinative relationship between the University of Nebraska and county governments relating to Nebraska Extension as set forth in Section 4.4.5 of the *Bylaws of the Board of Regents*.


If approved by the Board, the above amendments to the *Bylaws of the Board of Regents* shall apply prospectively as of the date of approval.

These revisions are recommended for approval by the Academic Affairs Committee.

SPONSOR: Michael J. Boehm, Ph.D.
NU Vice President and IANR Vice Chancellor

Ronnie D. Green, Ph.D.
Chancellor, University of Nebraska-Lincoln

RECOMMENDED:


Walter E. Carter, President
University of Nebraska

DATE: March 5, 2021

PROPOSED BOARD OF REGENT'S BYLAW AMENDMENTS

4.4 Types of Appointment: Professional Staff. (As defined in Section 3.1.1)

- 4.4.1 **Special Appointments.** Appointments to (a) all administrative and non-faculty professional staff positions, and (b) all appointments to faculty positions that are not “Appointments for a Specific Term,” “Health Professions Faculty Appointments,” “Faculty Practice and Faculty Research Appointments,” or “Continuous Appointments” shall be “Special Appointments.” The following types of faculty appointments shall be filled by Special Appointment only: (1) temporary appointments, (2) appointments to part-time positions, (3) appointments for less than one academic year in any rank, (4) courtesy appointments, (5) appointments to volunteer status, (6) annual appointments beyond retirement age, (7) appointments to the rank of instructor, assistant instructor, lecturer, ~~or~~ senior lecturer, assistant extension educator, associate extension educator, or extension educator, (8) appointments to ranks preceded by the designation “visiting,” and (9) appointments supported by funds over which the University does not have control or which the University cannot reasonably expect to continue indefinitely, provided, that the total period of full-time service on a faculty Special Appointment in the rank of instructor shall not exceed seven years.

A “Special Appointment” will terminate in accordance with the time stated in the appointment to the position or in the written contract, and, if no time is stated in the appointment to the position or in the written contract, the appointment may be terminated by either party giving the other at least 90 days notice of the date of termination, except for those who hold “Special Appointments” as assistant extension educator, associate extension educator, and extension educator. Assistant extension educator, associate extension educator and extension educator may terminate their appointment by giving the appropriate administrative officer 90 days’ notice of the date of termination. Notice shall be given by an appropriate administrative officer no fewer than 90 days for assistant extension educators, no fewer than six (6) months for associate extension educators, and no fewer than one year for extension educators in advance of the termination. Such appointments may also be terminated by the University for adequate cause, disability, bona fide discontinuance of a program or department, or extraordinary circumstances because of financial exigencies.

A member of the faculty may hold a “Special Appointment” coincident with an “Appointment for a Specific Term,” “Health Professions Faculty Appointment,” or a “Continuous Appointment,” and the terms of the Special Appointment may be independent of the terms of the other appointment status as a faculty member.

- 4.4.5 **Extension Personnel.** In cooperation with Nebraska county governments and to further the shared goals and missions of Nebraska Extension and the people of Nebraska, the University of Nebraska places within the state’s counties those university employees, such as Extension Educators ~~and Extension Assistants~~, in order to advance and provide administrative leadership ~~to~~ for the local extension programs adopted by those county extension boards. ~~The~~ Extension Educators and ~~Extension Assistants~~ are at all times employees of the University of Nebraska, subject to the terms and benefits of the employment applicable to University of Nebraska employees. In turn, ~~the~~ counties provide ~~county employees to~~ support and enhance the success of the Extension Educators, local programming, and mutually beneficial goals. the Extension Educators and Assistants in their administrative roles. Such supportive county

~~employees are employed by the counties pursuant to county human resource policies, county benefit policies, and all other terms of employment applicable to the relevant county's(ies') employment. The counties and the university shall carefully consider each other's recommendations and input in relation to their respective personnel, in order to best meet their mutual goals. The scope and detail of Nebraska Extension's engagement with each county government is detailed in a collaboratively developed Interlocal Agreement subject to periodic review, revision, and reaffirmation.~~

ATTACHMENT 1



NOTICE OF MEETING

Notice is hereby given that the Board of Regents of the University of Nebraska will meet in a publicly convened session on Friday, April 9, 2021, at 9:00 a.m. at the Nebraska Innovation Campus Conference Center, 2021 Transformation Drive, Lincoln, Nebraska.

An agenda of subjects to be considered at said meeting, kept on a continually current basis, is available for inspection in the office of the Corporation Secretary of the Board of Regents, Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska, or at <https://nebraska.edu/regents/agendas-minutes>

A copy of this notice will be delivered to the Lincoln Journal Star, the Omaha World-Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, the Lincoln office of the Associated Press, members of the Board of Regents, and the President's Council of the University of Nebraska.

Dated: April 2, 2021

Stacia L. Palser
Interim Corporation Secretary
Board of Regents
University of Nebraska

Board of Regents

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