

BOARD OF REGENTS BRIEFING PAPER

Handbook Revision, Policy of the Board of Regents
June 6-7, 2024

BACKGROUND & POLICY CONTEXT OF ISSUE:

This policy proposal to amend Title 4, Chapter 8, Sections 1 and 2 comes before you at the request of Regents Brooks, Goodman and Arrascada.

At the December, 2022 Quarterly Board of Regents meeting, the Board amended Title 4, Chapter 8 to include a new Section 2 mandating anti-bias and anti-discrimination training be included in all diversity training efforts and further require that members of the Board participate in such training. That section included a reference to the definition of “antisemitism” adopted by the International Holocaust Remembrance Alliance (IHRA) on May 26, 2016 for purposes of providing anti-bias and anti-discrimination training.

On May 7, 2024, the U.S. Department of Education Office of Civil Rights (OCR) issues a *Dear Colleague* Letter sharing information about the federal civil rights obligations of schools “to ensure nondiscrimination based on race, color, or national origin, including shared ancestry or ethnic characteristics, under Title VI of the Civil Rights Act of 1964 and its implementing regulations (Title VI)” while explaining that protections extend to students and school community members who are or are perceived because of their shared ancestry or ethnic characteristics to be Jewish, Israeli, Muslim, Arab, Sikh, South Asian, Hindu, Palestinian, or any other faith or ancestry.” Executive Order 13899 provides that federal agencies, including OCR, consider the non-legally binding IHRA working definition of antisemitism and accompanying examples of antisemitism to the extent that they “might be useful as evidence of discriminatory intent.”

This policy proposal amends Title 4, Chapter 8, Sections 1 and 2 by adding language to address discrimination based on shared ancestry or ethnic characteristics, or citizenship or residency in a country with a dominant religion or distinct religious identity and permitting consultation of the IHRA definition of “antisemitism” and accompanying examples thereof to the extent that they “might be useful as evidence of discriminatory intent,” consistent with Executive Order 13899.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend Title 4, Chapter 8, Sections 1 and 2 as proposed.

IMPETUS (WHY NOW?):

Pursuant to Board *Bylaws*, Article V, Section 7, three regents have requested this policy proposal be placed on the agenda.

CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- Access (Increase access to higher education)
- Success (Improve student success)
- Close Institutional Performance Gaps
- Workforce (Meet workforce needs in Nevada)
- Research (Increase solutions-focused research)
- Coordination, Accountability, and Transparency (Ensure system coordination, accountability, and transparency)
- Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

Compliance with Board *Bylaws*, Article V, Section 7.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

This policy proposal may provide clarity to NSHE students and personnel by adding language to address discrimination (including antisemitism) based on (i) shared ancestry or ethnic characteristics, or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity, and permit consultation of the IHRA definition of “antisemitism” and accompanying examples thereof.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

The IHRA definition of “antisemitism” is more appropriately utilized for anti-bias and anti-discrimination training, and the latest regulatory guidance from the U. S. Department of Education Office of Civil Rights sufficiently provides clarity for NSHE students and personnel on these issues.

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

Do not amend the policy.

RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

No recommendation. Pursuant to Board *Bylaws*, Article V, Section 7, three regents have requested this policy proposal be placed on the agenda.

COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
 Amends Current Board Policy: *Title 4, Chapter 8, Sections 1-2*
 Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
 Other: _____
 Fiscal Impact: Yes _____ No _____
Explain: _____

POLICY PROPOSAL - HANDBOOK
TITLE 4, CHAPTER 8, SECTIONS 1-2
Policy of the Board of Regents

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 1. Introduction

The Nevada System of Higher Education is guided by the principle that there shall be no difference in the treatment of persons because of race, religion, color, age, sex (including a pregnancy related condition), sexual orientation, military status or military obligations, disability (whether actual or perceived by others to have a disability including veterans with service-connected disabilities, or national origin, and that equal opportunity and access to facilities shall be available to all. *This extends to individuals who experience discrimination (including antisemitism¹) based on their actual or perceived: (i) shared ancestry or ethnic characteristics; or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.* Similarly, there shall be no difference in the treatment of persons who file charges of discrimination or harassment, participate in a discrimination or harassment proceeding, or otherwise oppose discrimination or harassment. This principle is applicable to every member of the Nevada System of Higher Education community, both students and employed personnel at every level, and to all units, facilities, and services of the Nevada System of Higher Education.

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Section 2. Anti-Bias and Anti-Discrimination Training

The Board of Regents supports anti-bias and anti-discrimination education as an approach to increase understanding of differences and the value of a respectful and civil society that actively challenges bias, stereotypes and discrimination.

1. Each institution, the Chancellor’s Office, including special units, and the Board Office, will establish anti-bias and anti-discrimination education and training programs that address the effects of bias and discrimination, including racism, antisemitism^[2], age, disability, gender, military status or obligations, sexual orientation, gender identity or expression, national origin, race, color, and religion. These programs may be built into existing diversity, equity, and inclusion training efforts.

...

¹ *“Antisemitism” refers to (i) the non-legally binding working definition of anti-Semitism adopted on May 26, 2016, by the International Holocaust Remembrance Alliance (IHRA) and (ii) the “Contemporary Examples of Anti-Semitism” identified by the IHRA, to the extent they might be useful as evidence of discriminatory intent. Consideration of the materials described in (i) and (ii) shall not diminish or infringe upon any right protected under Federal law or under the First Amendment and shall not be construed to conflict with local, federal, or state law. Determinations that a particular act constitutes illegal discrimination or harassment requires detailed analysis of the particular facts at issue and consultation of applicable legal and regulatory guidance .*

^[2] ~~“Antisemitism” refers to the definition adopted by the International Holocaust Remembrance Alliance (IHRA) on May 26, 2016, including the contemporary examples provided, which may be found at <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>. Nothing in this section, including use of the definition of antisemitism adopted by the IHRA, shall be construed to diminish or infringe upon any rights protected under the First Amendment to the *United States Constitution* or the *Nevada Constitution*, and shall not be construed to conflict with local, federal, or state law.]~~