

BOARD OF REGENTS

BRIEFING PAPER

1. AGENDA ITEM TITLE: PROPOSED *HANDBOOK* REVISION: NSHE NON-DISCRIMINATION POLICY—CLOTHING AND HAIRSTYLE

MEETING DATE: June 11-12, 2020

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

Title 4, Chapter 8, Section 13 of the *Handbook* sets forth, *inter alia*, the Board's policy against discrimination. Subsection A.1. expresses the Board's commitment to providing places of work and learning free of discrimination on the basis of race, gender, disability, sexual orientation, and many other classifications.

For decades, people of color, particularly African American women, report having felt pressured to use excessive heat and chemical relaxers to conform to European standards of straight hair. More recently, media organizations across the nation have reported on school policies, enforced by officials and administrators, banning hairstyles consistent with the natural hair textures of African American men and women, including dreadlocks, twists, braids, and afros. In response to these policies, lawmakers across the nation began exploring and enacting legislation to end the implicit and explicit biases faced by people of color in the workplace and the classroom.

Within this context, on or about October 30, 2019, the Senate of the Associated Students of the University of Nevada, Reno (ASUN) introduced and passed Senate Resolution 87-89 entitled "A Resolution in Support of a Policy to Condemn Racial Hair Discrimination" (included as reference material). Following the lead of California, New York, Michigan, Kentucky, Tennessee, Illinois, and other states and cities whose legislative bodies have passed or explored legislation in this area, ASUN's Resolution supports the establishment of a Board policy against discrimination on the basis of, but not limited to, hairstyle and texture.

The proposed revisions seek to expand the scope of the Board's non-discrimination policy to include protections against discrimination consistent with not only the ASUN Resolution but also with federal civil rights laws generally, including the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, national origin, and religion in numerous settings including employment, education, and public accommodations.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Approval of the revisions to Title 4, Chapter 8, Section 13 of the *Handbook* as outlined in the attached document.

4. IMPETUS (WHY NOW?):

Federal law already prohibits discrimination on the basis of race, color, national origin, and religion in employment and education. States, however, may provide greater and more specific protections to their residents above the federal baseline.

NSHE is a majority-minority system based on enrollment. UNLV, for example, is consistently ranked as one of the most, if not the most, diverse campuses in the nation. In light of recent events involving race at NSHE and across the nation, the Board should lead on this issue and enact policies that affirmatively protect racial minorities from discrimination in the workplace and in the classroom. This expansion is not only consistent with the Board's values, it signals a welcoming environment for all students, employees, and prospective students and employees in a time of great uncertainty owing to the coronavirus pandemic. Because identity is complex and often intersectional, the proposed revisions also include protections for clothing and headwear traditionally associated with race, color, national origin, or religion.

As to location and placement, incorporating the proposed policy into the Board's already-existing policy against discrimination makes logical sense.

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

- ☒ Access (Increase participation in post-secondary education)
- ☒ Success (Increase student success)
- ☐ Close the Achievement Gap (Close the achievement gap among underserved student populations)
- ☐ Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- ☐ Research (Co-develop solutions to the critical issues facing 21st century Nevada and raise the overall research profile)
- ☐ Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

This proposal, if enacted, will foster a culture of inclusivity and celebrate the diversity of NSHE's students and prospective students by protecting from discrimination those who exhibit traits historically associated with race, color, national origin, or religion. For these reasons, this proposal supports increased participation in post-secondary education by racial, ethnic, or religious minorities and supports an environment of student success unaccompanied by the distractions often resulting from discriminatory acts.

6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Discrimination on the basis of race, color, national origin, or religion is abhorrent in any iteration, including as it relates to hairstyle or hair texture.
- Outlining specific protections in this area, particularly as it pertains to clothing, will alleviate any ambiguity that may arise from the current language in the *Handbook*.
- Signals a welcoming environment for all NSHE students, employees, and prospective students and employees in a time of great uncertainty owing to the coronavirus pandemic.

7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- Current Board policy indirectly protects hairstyle and hair texture through its protections against discrimination on the basis of race, color, religion, and national origin, so these proposed revisions could be viewed as duplicative.
- NSHE has not received a substantial amount of complaints of discrimination in this area, so these proposed revisions are unnecessary.

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

Limit the expansion of protections in some way.

9. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

The Chancellor's Office recommends approval of the language as drafted.

10. COMPLIANCE WITH BOARD POLICY:

- ☐ Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
- X Amends Current Board Policy: Title # 4 Chapter # 8 Section # 13
- ☐ Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- ☐ Other: _____
- X Fiscal Impact: Yes _____ No X
- Explain: _____

POLICY PROPOSAL
TITLE 4, CHAPTER 8, SECTION 13

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

Section 13. Policy Against Discrimination and Sexual Harassment; Complaint Procedure

A. NSHE Non-Discrimination Policy

1. Policy Applicability and Sanctions.

The Nevada System of Higher Education (NSHE) is committed to providing a place of work and learning free of discrimination on the basis of a person's age, disability, whether actual or perceived by others (including service-connected disabilities), gender (including pregnancy related conditions), military status or military obligations, sexual orientation, gender identity or expression, genetic information, national origin, race, color or religion. Where discrimination is found to have occurred, the NSHE will act to stop the discrimination, to prevent its recurrence, to remedy its effects, and to discipline those responsible.

This policy also prohibits any discrimination based on a person's clothing or traits historically associated with national origin, race, color or religion, including, but not limited to, hair texture, hairstyle or headwear.