

BOARD OF REGENTS
BRIEFING PAPER

1. AGENDA ITEM TITLE: HANDBOOK AMENDMENTS: NSHE POLICY AGAINST DISCRIMINATION AND SEXUAL HARASSMENT RELATED TO SENATE BILL 327 AND SB 347

MEETING DATE: September 9 and September 10, 2021

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

This Agenda item involves two new statutory provisions.

Senate Bill 327 was passed by the 81st (2021) Legislative Session and was signed into law in June 2021 by Governor Sisolak. Senate Bill 327 prohibits certain types of discrimination relating to race in employment and education and defined, "Protective hairstyles" and "Race". Therefore, it is proposed that the definition of "race" within Nevada System of Higher Education's existing policy against discrimination and sexual harassment, (Board of Regents' *Handbook*, Title 4, Chapter 8, Section 13), be updated to include the definition of hair texture and protected hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists, in accordance with SB 327.

Senate Bill 347 was also passed by the 81st (2021) Legislative Session and was signed into law in June 2021. While most of the bill language is permissive, the bill statutorily created a Task Force on Sexual Misconduct at Institutions of Higher Education with 10 of the 12 members being appointed by the Board. Membership nominations will be addressed in a separate agenda item.

SB 347 also authorized the Board, to the extent money is available, to appoint researchers to develop a climate survey on sexual misconduct designed to be administered at the institutions within the System. Further provisions addressing a climate survey will be addressed in the NSHE Procedures and Guidelines Manual.

SB 347 also contained several permissive provisions relating to sexual misconduct and institutional response to allegations of sexual misconduct. NSHE has a robust anti-discrimination and harassment policy which is contained with the Board of Regents' *Handbook*, Title 4, Chapter 8, Section 13. Existing policy is expansive and meets federal (Title IX, VOWA, and Clery Act) mandates. Therefore, the proposed amendments seek to increase consistency between the non-Title IX complaints and the Title IX complaints, provide clarity regarding certain sexual misconduct-related training campus law enforcement must have, implement an amnesty clause from certain disciplinary actions, and enhance certain aspects of the policy such as definitions, interim and supportive measures, and to mandate that in addition to other training all individuals involved in the response to, investigation of, or the adjudication of any complaint based in sexual violence shall have the specialized training in regards to Sexual Violence. SB347 also permitted and made permissive other undertakings, and these have been reviewed and adopted as appropriate, as proposed amendments to the NSHE policy against Discrimination and Sexual Harassment.

Additional considerations, processes, and protocols regarding SB 347 Section 24.95 may be developed and brought back to the Board after further consultation with stakeholders.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

NSHE Deputy General Counsel Tina Russom and UNR Title IX Director Maria Doucettperry will present for the Board of Regents consideration and approval amendments to Title 4, Chapter 8, Section 13 of the Handbook. The amendments are being proposed pursuant to Senate Bill 327 and 347, which were passed by the Nevada Legislature during 2021 Legislative Session.

4. IMPETUS (WHY NOW?):

SB327 and 347 were signed into law in June 2021 and generally became effective on July 1, 2021. Since the passage of the bill, a Title IX working group has been working diligently to review and update revisions to the NSHE policy.

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

The updates will help increase participation, student success, and close the achievement gap in post-secondary education by reducing discrimination and providing prompt and fair remedies to those who have been the subject of discrimination.

6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

NSHE's existing Sexual Harassment Policy meets or exceeds federal Title IX mandates provides a robust institutional response and process for those involved in incidents of sexual misconduct. The proposed updates further expand existing policy and provides additional clarity for those involved in incidents of sexual misconduct.

7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

N/A

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

N/A

9. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

The Chancellor's office supports passage of these revisions.

10. COMPLIANCE WITH BOARD POLICY:

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

POLICY PROPOSAL - *HANDBOOK*

TITLE 4, CHAPTER 8, SECTION 13

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

Title 4 - Codification of Board Policy Statements

Chapter 8

STUDENT RECRUITMENT AND RETENTION POLICY, EQUAL EMPLOYMENT OPPORTUNITY POLICY AND AFFIRMATIVE ACTION PROGRAM FOR THE NEVADA SYSTEM OF HIGHER EDUCATION

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

Introduction

This policy is largely based on federal and state anti-discrimination laws and is divided into four subsections. Except as otherwise provided, Subsections A through C do not apply to “sexual harassment” under ***Title IX of the Education Amendments of 1972*** (Title IX), the requirements and procedures of which are stated in Subsection D. Subsection A states the Nevada System of Higher Education (NSHE) policy against unlawful discrimination and unlawful harassment that does not constitute Title IX “sexual harassment” under Subsection D, specifies training requirements, and defines “consent.” Subsection B describes the remedies and interim measures that are available in cases of unlawful discrimination and unlawful harassment that does not constitute “sexual harassment” under Title IX. Subsection C contains the complaint and investigation procedures for complaints of unlawful discrimination and harassment that does not constitute Title IX “sexual harassment” under Subsection D and, when appropriate, instances where the institution has notice of possible unlawful discrimination and/or harassment. Subsection D sets forth NSHE’s sexual harassment policy under Title IX; defines “sexual harassment”; describes the remedies and supportive measures available in a sexual harassment case; and describes the requirements and procedures for a sexual harassment complaint, investigation, informal resolution, live hearing, and appeal. All of these procedures are in addition to disciplinary complaints brought against professional employees or students under Title 2, Chapter 6, Chapter 8 or Chapter 10 of the NSHE Code (or if applicable, institution student codes of conduct), or against classified employees under the *Nevada Administrative Code* Chapter 284 and/or Chapter 289 or Desert Research Institute Technologists under the Technologists Manual ***and/or any approved Collective Bargaining Agreement***. However, information gathered as part of the complaint and/or investigation processes under this Section may be used in connection with disciplinary proceedings.

A. NSHE Policy Against Unlawful Discrimination and Harassment that Does Not Constitute Title IX Sexual Harassment

1. Policy Applicability and Sanctions

NSHE is committed to providing a place of work and learning free of discrimination on the basis of a person's age (40 or older), 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 (**including hair texture and protected hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists**), color, or religion (protected classes). Discrimination on the basis of a protected class, including unlawful harassment, which is a form of discrimination, is illegal under federal and state law. Where unlawful discrimination is found to have occurred, NSHE will act to stop the unlawful 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.]~~

No employee, student, or other member of the campus community, either in the workplace or in the academic environment, should be subject to unlawful discrimination.

It is expected that students, faculty and staff will treat one another and campus visitors with respect.

All students, faculty, staff, and other members of the campus community are subject to this policy. Students, faculty, or staff who violate this policy are subject to discipline up to and including termination and/or expulsion, in accordance with the NSHE Code (or in the case of students, any applicable student code of conduct) or, in the case of classified employees and law enforcement personnel, the *Nevada Administrative Code* **and/or any collective bargaining agreement** or, in the case of Desert Research Institute (DRI) technologists, the Technologists Manual. Other lesser sanctions may be imposed, depending on the circumstances. Complaints may also be filed against visitors, consultants, independent contractors, volunteers, service providers and outside vendors whose conduct violates this policy, with a possible sanction of limiting access to institution facilities and other measures to protect the campus community.

Any employee, student, or other member of the campus community may utilize any of the complaint processes set forth in this policy.

2. Distribution of Policy; Training on the Prevention of Unlawful Discrimination and Harassment; and Annual Policy Review.

a. Distribution of Policy

Annually, all employees shall be given a copy of this anti-discrimination policy, which may be provided electronically, and each institution shall maintain documentation that each employee received the anti-discrimination policy. New employees shall be given a copy of this policy at the time of hire and each institution's Human Resources Office shall maintain documentation that each new employee received the policy.

Each institution shall provide this policy to its students at least annually and may do so electronically.

Each institution shall include this policy and complaint procedure on its website and in its general catalog.

b. Training on the Prevention of Unlawful Discrimination and Harassment

Each institution shall provide ongoing training on the prevention of unlawful discrimination and harassment and shall designate a person(s) or office to be responsible for such training.

Institutions must provide new students and new employees primary prevention and awareness training that promotes awareness of rape, domestic violence, dating violence, sexual assault and stalking as defined in this policy. The training must address safe and positive options for bystander intervention to prevent harm, including how to intervene in risky situations; the recognition of abusive behavior; and how to avoid potential attacks.

Within six **(6)** months after an employee is initially appointed to NSHE, the employee shall receive training regarding the prevention of unlawful discrimination and harassment, including primary prevention and awareness training. At least once every two years after the appointment, an employee shall receive training concerning the prevention of unlawful discrimination and harassment.

Incoming freshmen and transfer students within their first semester of enrollment shall receive training regarding the prevention of unlawful discrimination and harassment, including primary prevention and awareness training.

See also Special Training with Regard to Sexual Violence in **Subsection C**, ~~[Subsection b of Subsection 3 of Subsection c below.]~~below.

c. Annual Policy Review

No later than the end of each **academic** calendar year, each institution's Title IX Coordinator shall review and provide to NSHE suggestions for changes to this policy. NSHE shall review and consider the suggested changes and

propose policy revisions to the Board of Regents, as appropriate, at the last regular Board meeting of the fiscal year.

3. Discriminatory Acts

It is illegal to discriminate on the basis of age (40 or older), disability (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 (***including hair texture and protected hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists***), color, or religion in any aspect of employment or education, such as:

- Application, hiring, background checks, discipline, and firing;
- compensation, assignment, or classification of employees;
- transfer, promotion, layoff, or recall;
- job advertisements;
- recruitment;
- testing;
- grading;
- acceptance or participation in an academic program or school activity;
- use of employer's facilities;
- training programs;
- fringe benefits;
- pay, retirement plans, and disability accommodations or leave; or
- other terms and conditions of employment.

Determining what constitutes unlawful discrimination under this policy will be accomplished on a case- by-case basis and depends upon the specific facts and the context in which the conduct occurs. Some conduct may be inappropriate, unprofessional, and/or subject to disciplinary action, but would not fall within the scope of unlawful discrimination. The specific action taken, if any, in a particular instance depends on the nature and gravity of the conduct reported and may include anti-discrimination related disciplinary processes.

Discriminatory acts also include:

- discrimination on the basis of a person's age (40 or older), disability (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 (***including hair texture and protected hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists***), color, or religion;

- retaliation against an individual for reporting an incident or filing a charge of unlawful discrimination, including unlawful harassment; participating in an investigation, hearing, or other related administrative process; or opposing discriminatory acts;
- employment or education decisions based on stereotypes or assumptions about the abilities, traits or performance of individuals of a certain age (40 or older), disability (including service-connected disabilities), gender (including pregnancy related condition), military status or military obligations, sexual orientation, gender identity or expression, genetic information, national origin, race, color, or religion; and
- “harassment,” which refers to unwelcome conduct that is based on a person’s age (40 or older), disability (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 (***including hair texture and protected hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists***), color, or religion. Harassment becomes unlawful where: 1) enduring the offensive conduct becomes a condition of employment or educational pursuits, or 2) the conduct is severe, persistent, or pervasive enough to create a work or educational environment that a reasonable person would consider intimidating, hostile, offensive, or abusive. Examples of unwelcome conduct that, if severe, persistent, or pervasive could constitute harassment, include but are not limited to: slurs, jokes, graffiti, offensive or derogatory comments, or other verbal or physical conduct that is unwelcome.

This behavior is unacceptable in the workplace and the academic environment. Even one incident, if it is sufficiently serious, may constitute unlawful discrimination. One incident, however, does not necessarily constitute unlawful discrimination.

4. Non-Title IX Sexual Harassment Defined

Outside of the Title IX context, unwelcome sexual advances, requests for sexual favors, and or other visual, verbal or physical conduct of a sexual or gender bias nature constitute sexual harassment when:

a. In the educational environment:

- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s academic status (“quid pro quo”); or
- ii. Conduct, viewed under an objective standard, is sufficiently severe, persistent or pervasive so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities or opportunities offered by the institution (“hostile environment”).

b. In the workplace environment:

- i. Submission to or rejection of the conduct is used as a basis for academic or employment decisions or evaluations, or permission to participate in an activity (“quid pro quo”); or
- ii. Conduct, viewed under an objective standard, is sufficiently severe, persistent or pervasive so as to create an intimidating, hostile or abusive work environment, which may or may not interfere with the employee’s job performance (“hostile environment”).

5. Non-Title IX Sexual Harassment Examples

a. Sexual Harassment Examples Outside of the Title IX Context

Sexual harassment may take many forms – subtle and indirect, or blatant and overt. For example:

- It may occur between individuals of the opposite sex or of the same sex.
- It may occur between students, between peers and/or co-workers, or between individuals in an unequal power relationship (such as by a supervisor with regard to a supervised employee or an instructor regarding a current student).
- It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance.
- It may consist of repeated actions or may even arise from a single incident if sufficiently severe.
- It may also rise to the level of a criminal offense, such as battery or sexual violence.
- Sexual violence, which is a severe form of sexual harassment and refers to physical, sexual acts or attempted sexual acts perpetrated against a person’s will or where a person is incapable of giving consent, including but not limited to rape, sexual assault, sexual battery, sexual coercion or similar acts in violation of state or federal law. A person may be incapable of giving consent due to the use of drugs or alcohol, age, an intellectual or other disability, or other factors, which demonstrate a lack of consent or inability to give consent.

~~[Determining what constitutes sexual harassment under this policy is dependent upon the specific facts and the context in which the conduct occurs. Some conduct may be inappropriate, unprofessional, and/or subject to disciplinary action, but would not fall under the definition of sexual harassment. The specific action taken, if any, in a particular instance depends on the nature and gravity of the conduct reported, and may include disciplinary processes.]~~

Examples of unwelcome conduct of a sexual or gender related nature that may constitute sexual harassment may, but do not necessarily, include, and are not limited to:

- Rape, sexual assault, sexual battery, sexual coercion, dating violence, domestic violence, stalking, other sexual violence;
- Stealthing, including the intent to remove or damage a contraceptive device without the knowledge or consent of the other participant while engaging in a sexual act;
- Sexually explicit or gender related statements, comments, questions, jokes, innuendoes, anecdotes, or gestures;
- Other than customary handshakes, uninvited touching, patting, hugging, or purposeful brushing against a person's body or other inappropriate touching of an individual's body;
- Remarks of a sexual nature about a person's clothing or body;
- Use of mail, text messages, social media, or other electronic or computer sources for nonconsensual dissemination of sexually oriented, sex-based communications;
- Sexual advances, whether or not they involve physical touching;
- Requests for sexual favors in exchange for actual or promised job or educational benefits, such as favorable reviews, salary increases, promotions, increased benefits, continued employment, grades, favorable assignments, letters of recommendation;
- Displaying sexually suggestive objects, pictures, magazines, cartoons, screen savers or electronic files;
- Inquiries, remarks, or discussions about an individual's sexual experiences or activities and other written or oral references to sexual conduct;
- **Indecent exposure.**
- ~~[Even one incident, if it is sufficiently serious, may constitute sexual harassment. One incident, however, does not necessarily constitute sexual harassment.]~~

This behavior is unacceptable in the workplace and the academic environment. Even one incident, if it is sufficiently serious, may constitute sexual harassment. One incident, however, does not necessarily constitute sexual harassment.

6. Sexual Assault, Dating Violence, Domestic Violence, Stalking, Coercion and Consent Defined

a. Sexual Assault

"Sexual assault" means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting Program.

"Rape" means penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is

incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

“Fondling” means the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

“Incest” means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

“Statutory rape” means sexual intercourse with a person who is under the statutory age of consent (16 years old).

b. Dating Violence

“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purpose of complying with the requirements of this Section and 34 CFR 668.41, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.

c. Domestic Violence

“Domestic violence” means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

d. Stalking

“Stalking” means engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or suffer substantial emotional distress.

e. Coercion

“Coercion” means the intent to compel a person to do or abstain from doing an act that the person has the right to do or abstain from doing through words, conduct or pressure by:

- the use of violence or threats of violence against a person or the person’s family or property;
- depriving or hindering a person in the use of any tool, implement or clothing;
- attempting to intimidate a person by threats or force;
- compelling another individual to initiate or continue sexual activity against an individual’s will; or
- threatening to “out” someone based on sexual orientation, gender, identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail.

f. Consent

Conduct is unwelcome if it is done in the absence of consent.

“Consent” means an affirmative, clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity.

- Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent.
- Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- The existence of a dating relationship or past sexual relations between the participants does not constitute consent to any other sexual act.
- Affirmative consent must be ongoing throughout the sexual activity and may be withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when it is the result of any coercion, intimidation, force, deception, or threat of harm.
- Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary); inability to communicate due to a mental or physical condition; the lack of consciousness or being asleep; being involuntarily restrained; if any of the parties are under the age of 16; or if an individual otherwise cannot consent.

- The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

7. Other Definitions:

- “Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.***
- “Reporting Party” means any person who reports sexual harassment or conduct that could constitute sexual harassment, whether or not the person reporting is the person alleged to be the victim.***
- “Respondent” means an individual who has been reported by the individual engaging in the conduct that could constitute sexual harassment.***

B. Remedies and Interim Measures for Unlawful Discrimination and Unlawful Harassment that Does Not Constitute Sexual Harassment under Title IX

It may be necessary or advisable to take actions (as determined by the institution) designed to minimize the chance that either party ~~[will]~~ **may** either ~~[continue to]~~ harass or retaliate against the other party and to provide support to the parties, as appropriate. The measures themselves must not amount to retaliation and shall not be deemed to be a sanction. Depending on the specific nature of the problem, interim measures and final remedies may include, but are not limited to:

For Students:

- Issuing **mutual** no contact directives;
- Providing an ~~[effective]~~ escort to ensure safe movement between classes and activities;
- Not sharing classes or extracurricular activities;
- Moving to a different residence hall;
- Providing written information regarding institution and community services including but not limited to medical, counseling and academic support services, such as tutoring;
- Providing extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- Restricting to online classes;
- Providing information regarding campus transportation options;
- Reviewing any disciplinary actions taken against the complainant or the respondent to see if there is a connection between the sexual misconduct and the misconduct that may have resulted in the complainant or the respondent being disciplined¹; ~~and~~
- Requiring the parties to report any violations of these restrictions~~[-];~~ **and**

¹ For example, if one party was disciplined for skipping a class in which the other party was enrolled, the institution should review the incident to determine if class was skipped to avoid contact with the other party.

k. *Taking a leave of absence.*

For Employees:

- l. Provide an ~~[effective]~~ escort to ensure safe movement between work area and/or parking lots/other campus locations;
- m. Issuing ***mutual*** no contact directives;
- n. Placement on ***leave***; ~~[paid leave (not sick or annual leave);~~
- o. ~~Placement on administrative leave;]~~
- p. Transfer to a different area/department or shift in order to eliminate or reduce further business/social contact;
- q. Providing information regarding campus transportation options;
- r. Instructions to stop the conduct;
- s. Providing information regarding institution and community services including medical, counseling and Employee Assistance Program;
- t. Reassignment of duties;
- u. Changing the supervisory authority; and
- v. Directing the parties to report any violations of these restrictions.

All institution administrators, academic and administrative faculty, and staff are responsible for carrying out the interim measures and final remedies.

Interim measures and final remedies may include restraining orders, or similar lawful orders issued by the institution, criminal, civil or tribal courts. Interim measures and final remedies will be confidential to the extent that such confidentiality will not impair the effectiveness of such measures or remedies.

Final remedies may also include review and revision of institution sexual misconduct policies, increased monitoring, supervision or security at locations where incidents have been reported; and increased and/or targeted education and prevention efforts.

Any interim measures or final remedies shall be monitored by the Title IX Coordinator throughout the entire process to assess whether the interim measures or final remedies meet the goals of preventing ~~[ongoing]~~ unlawful discrimination or harassment, protecting the safety of the parties, restoring access to the institution's education programs and activities, and preventing retaliatory conduct.

Notwithstanding a complainant's request for confidentiality under Subsection 6 of Subsection C, the institution may undertake interim measures.

C. Complaint and Investigation Procedure for Unlawful Discrimination and Unlawful Harassment that Does Not Constitute Sexual Harassment under Title IX

Introduction

This Section provides the complaint and investigation procedures for complaints of unlawful discrimination or unlawful harassment that does not constitute "sexual harassment" under Title IX (except that complaints against students may be referred to student disciplinary

processes), including instances where the institution has notice of unlawful discrimination or harassment. The Chancellor (for the System Office) and each President shall designate no fewer than two administrators to receive complaints. The administrators designated to receive the complaints may include the following: (1) the Title IX Coordinator; (2) the Human Resources Officer; or (3) any other officer designated by the President. The President may also designate a primary investigating officer (primary officer) to investigate all complaints. The primary officer may be any of the individuals identified in this paragraph. All complaints, whether received by the Human Resources Officer or other designated officer, must immediately be forwarded to the Title IX Coordinator.

An individual filing a complaint of unlawful discrimination or harassment shall have the opportunity to select an independent advisor for assistance, support, and advice and shall be notified of this opportunity by the Title IX Coordinator or designee. It shall be the choice of the individual filing the complaint to utilize or not utilize an independent advisor and their responsibility to pay any associated fees. An independent advisor may be brought into the process at any time at the request of the complainant. An independent advisor may be any person who does not have a conflict of interest and who is not a witness in the matter.

An individual against whom a complaint of unlawful discrimination or harassment is filed shall have the opportunity to select an independent advisor for assistance, support, and advice and shall be notified of this opportunity by the Title IX Coordinator or designee. It shall be the choice of the individual against whom the complaint is filed to utilize or not utilize an independent advisor and their responsibility to pay any associated fees. An independent advisor may be brought into the process at any time at the request of the respondent. An independent advisor may be any person who does not have a conflict of interest and who is not a witness in the matter.

The individual filing a complaint of unlawful discrimination or harassment and the individual against whom a complaint is filed must be provided **this policy which addresses interim measures**~~[with a written explanation of their rights and options, including the range of available interim measures,]~~ and written notification of services available on campus and in the community.

If anyone in a supervisory, managerial, administrative or executive role or position, such as a supervisor, department chair, or director of a unit, receives a complaint of unlawful discrimination or harassment, or observes or becomes aware of conduct that may constitute unlawful discrimination or harassment, the person must immediately contact one of the individuals identified in this Section above to forward the complaint and/or provide information about the conduct, to discuss it and/or to report the action taken.

Complaints of unlawful discrimination or harassment should be filed as soon as possible with the supervisor, department chair, dean, or one of the administrators listed in this Section above and/or designated by the President (or the Chancellor for NSHE System Administration matters) to receive complaints of alleged unlawful discrimination or harassment.

1. Time Frames

Complaints of unlawful discrimination or harassment that does not constitute sexual harassment under Title IX must be filed within the time frames stated below.

Holidays and weekends should be included in all calculations. If, however, the deadline falls on a weekend or holiday, the complaint may be filed on the next business day and still considered timely. (Business days are non-weekend and non-holiday days in which NSHE administrative offices are open for business.)

Resources, to include actions commonly classified as “interim measures,” are available to eligible students and employees notwithstanding the issue of timeliness.

a. Employee Complaints

All employment complaints alleging unlawful discrimination or harassment (to include retaliation) must be received in the appropriate institutional office within 300 calendar days from the day the alleged act took place. If more than one act is alleged, the deadline will apply to each act independently, except in complaints of ongoing unlawful discrimination or harassment. Complaints of ongoing unlawful discrimination or harassment must be filed within 300 calendar days of the last alleged incident of unlawful harassment, although all alleged incidents of ongoing unlawful discrimination or harassment may be considered during the investigation, even if the earlier incidents are alleged to have occurred more than 300 calendar days earlier.

b. Student Complaints

All student complaints alleging unlawful discrimination or harassment (to include retaliation) must be received in the institution’s appropriate office within 180 calendar days from the day the alleged act took place. If more than one act is alleged, the deadline will apply to each event independently, except in complaints of ongoing unlawful discrimination or harassment. Complaints of ongoing unlawful discrimination or harassment must be filed within 180 calendar days of the last alleged incident of ongoing unlawful discrimination or harassment, although all alleged incidents of ongoing unlawful discrimination or harassment may be considered during the investigation, even if the earlier incidents are alleged to have occurred more than 180 calendar days earlier.

c. Other/Campus Visitor/Non-employee

Complaints alleging unlawful discrimination or harassment (to include retaliation) asserted by individuals who are neither NSHE employees nor students alleging unlawful discrimination or harassment by a NSHE employee during the employee’s work hours, or by a NSHE student on campus or at a NSHE-sponsored event, must be received in the institution’s appropriate office within 180 calendar days from the day the alleged act took place. If more than one act is alleged, the deadline will apply to each act independently, except in

complaints of ongoing unlawful discrimination or harassment. Complaints of ongoing unlawful discrimination or harassment must be filed within 180 calendar days of the last alleged incident of ongoing unlawful discrimination or harassment, although all alleged incidents of ongoing unlawful discrimination or harassment may be considered during the investigation, even if the earlier incidents are alleged to have occurred more than 180 calendar days earlier.

2. Complaint Procedures

a. Employees

- i. An employee who believes that they have been subjected to unlawful discrimination or harassment by anyone is encouraged – but it is neither necessary nor required, particularly if it may be confrontational – to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. An employee is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the employee.
- ii. The employee may file an unlawful discrimination or harassment complaint with their immediate supervisor, who will in turn immediately contact one of the officials listed in the introduction to this Section above.
- iii. If the employee feels uncomfortable about discussing the incident with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with one of the other listed officials or with any other supervisor.
- iv. After receiving any employee's complaint of an incident of alleged unlawful discrimination or harassment, the supervisor will immediately contact any of the individuals listed in the Introduction to this Section above to forward the complaint, to discuss it and/or to report the action taken. The supervisor has a responsibility to act even if the individuals involved do not report the complaint to that supervisor.

b. Students

- i. A student who believes that they have been subjected to unlawful discrimination or harassment by anyone is encouraged – but it is neither necessary nor required particularly if it may be confrontational – to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A student is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the student.
- ii. The student may file a complaint with their major department chair or director of an administrative unit, who will in turn immediately contact one of the officials listed in the Introduction of this Section above.
- iii. If the student feels uncomfortable about discussing the incident with the department chair or director of an administrative unit, the student should

feel free to bypass the person and file a complaint with one of the above officials in the Introduction to this Section or to any chair, dean, or director of an administrative unit who will in turn immediately contact one of the officials listed above in the Introduction to this Section to forward the complaint, to discuss it and/or to report the action taken. The chair, dean or director of an administrative unit has a responsibility to act even if the individuals involved do not report to that person.

3. Training, Investigation and Resolution

- a. General Requirements. The Title IX Coordinator, executives, administrators designated to receive complaints, and appropriate management level(s) with decision-making authority shall have training or experience in handling unlawful discrimination and misconduct complaints, and in the operation of the NSHE and *Nevada Administrative Code* disciplinary procedures.
- b. Special Training With Regard to Sexual Violence.
 - i. The training for each of the individuals identified in paragraph ~~4.a~~ **3.a** above, should include annual training on how to investigate and conduct hearings in a manner that protects the safety of the parties and promotes accountability; information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including stalking and same-sex sexual violence; the proper standard of review for sexual violence complaints (preponderance of the evidence); information on risk reduction; information on consent and the role drugs or alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual violence; the need for remedial actions for the respondent, complainant, and institution community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct investigations; confidentiality; the effects of trauma, including neurobiological change; and cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.
 - ii. ***The Director or designee for an institution's campus law enforcement shall ensure annual training, reviewed by the Title IX Coordinator, is provided to its officers that includes: working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including stalking and same-sex sexual violence; information on consent and the role drugs or alcohol can play in the ability to consent; the effects of trauma, including neurobiological change; and cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.***
 - iii. Investigation. After receiving a complaint or information about the incident or behavior, the Title IX Coordinator or the primary officer, or designee, will initiate an investigation to gather information about the incident. If the Title IX Coordinator or primary officer, or designee, is unable to initiate an investigation, due to a conflict or for any other reason, the President shall designate another individual to act as primary officer for the matter. Each institution may set guidelines for the manner in which an investigation shall be conducted. The

guidelines shall provide for the prompt, thorough, impartial, and equitable investigation and resolution of complaints, and shall identify the appropriate management level with final decision-making authority. The guidelines shall, at a minimum, provide the person subject to the complaint with information as to the nature of the complaint, and shall further provide that the person filing the complaint and the person who is the subject of the complaint have equal rights to be interviewed, identify witnesses and provide documentation pertaining to the complaint. In most cases, an investigation should be completed within a reasonable time from receipt of the complaint or information about the conduct. At the completion of the investigation, findings and a recommendation will be made to the appropriate management level with final decision-making authority regarding the resolution of the matter. The recommendation is advisory only.

- iv. **Standard of Review.** The standard for evaluating complaints shall be a preponderance of the evidence (i.e., the evidence establishes that it is more likely than not that the prohibited conduct occurred).
- v. **Management Determination.** After the recommendation has been made, a determination will be made by appropriate management level with final decision-making authority regarding the resolution of the matter. If warranted, disciplinary action up to and including involuntary termination or expulsion may be taken. Any such disciplinary action shall be taken, as applicable, in accordance with NSHE Code Chapter 6, Chapter 8 or Chapter 10 (or applicable Student Code of Conduct), or, in the case of classified employees or law enforcement personnel, *Nevada Administrative Code* (NAC) Chapter 284 or Chapter 289 **and/or associated collective bargaining agreement**, or in the case of DRI technologists, the Technologists Manual. Other appropriate actions will be taken to correct problems and remedy effects, if any, caused by the conduct, if appropriate. If proceedings are initiated under Title 2, Chapter 6, Chapter 8 or Chapter 10, the applicable Student Code of Conduct, the NAC Chapter 284 or Chapter 289 **and/or associated collective bargaining agreement**, or Technologists Manual, the investigation conducted pursuant to this policy may be used as part of such investigations. The administrative officer, in their discretion, may also supplement the investigation with additional investigation. In any disciplinary hearings conducted pursuant to a Student Code of Conduct or under Title 2, Chapter 6, Chapter 8, Chapter 10, the NAC Chapter 284 or Chapter 289 **and/or associated collective bargaining agreement**, or Technologists Manual, the standard of evidence shall be by a preponderance of the evidence. [.] (i.e., the evidence establishes that it is more likely than not that the prohibited conduct occurred).

In connection with any such disciplinary hearings, the person filing the complaint and the person who is the subject of the complaint have equal rights to be interviewed, identify witnesses, and provide and receive documentation and witness lists pertaining to the complaint.

- vi. **Parties to be Informed.** ***Within 14 business days after*** ~~[After]~~ the appropriate management level with final decision-making authority has made a determination regarding the resolution of the matter, and depending on the circumstances, both parties may be informed concurrently of the resolution (see subparagraph i below). **Confidentiality of Actions Taken.** In the event actions are taken against an individual under NSHE Code Title 2, Chapter 6, Chapter 8 or Chapter 10 (or applicable Student Code of Conduct) or NAC Chapter 284 or Chapter 289 **and/or**

associated collective bargaining agreement, or the Technologists Manual, such matters generally remain confidential under those Sections, except that final decisions following hearings or appeals of professional employees and State of Nevada personnel hearings involving classified employees are public records. Student matters generally remain confidential under the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, 34 CFR Part 99 (FERPA).

- vii. Crime of Violence Exception to the Family Educational Rights and Privacy Act (FERPA). When discriminatory conduct or sexual harassment involves a crime of violence or a non-forcible sexual offense, FERPA permits the institution to disclose to the complainant the final results (limited to the name of the respondent, any violation found to have been committed, and any sanction imposed) of a disciplinary proceeding against the respondent, regardless of whether the institution concluded that a violation was committed. With respect to an institutional disciplinary proceeding alleging sexual violence, domestic violence, dating violence or stalking offense, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. §1092 (f). 34 CFR 668.46 (Clery Act) requires that the accuser and the accused must be simultaneously informed of the outcome.
 - viii. Disclosure of Sanction Imposed. In the event a student is found to have engaged in sexual harassment of another student, the institution shall disclose to the student who was harassed, information about the sanction imposed on the student who was found to have engaged in harassment when the sanction directly relates to the harassed student.
 - c. Resignation of Employee or Withdrawal of Student. If a student respondent withdraws from the institution or an employee respondent ends employment (e.g., resigns, retires) while an investigation of a complaint involving unlawful discrimination or harassment is pending under this policy, the Title IX Coordinator shall take appropriate action, which may include completing the investigation to the extent reasonably practicable, in order to prevent the reoccurrence of and to remedy the effects of the alleged misconduct.
 - d. Title IX Coordinator Monitoring. The institution Title IX Coordinator has primary responsibility for coordinating the institution's efforts to comply with and carry out its responsibilities under this Subsection. The Title IX Coordinator is responsible for monitoring all aspects of the investigation and any interim measures or final remedies to help ensure that:
 - 1. the process is fair and equitable to both the complainant and the respondent;
 - 2. the applicable policies and procedures of NSHE and of the institution are followed; and
 - 3. the interim measures and final remedies are followed.
4. Prompt Attention

Complaints of unlawful discrimination or harassment are taken seriously and will be dealt with promptly, thoroughly, impartially, and equitably. Where unlawful discrimination or harassment is found to have occurred, the NSHE institution or unit where it occurred will act to stop the unlawful discrimination or harassment,

to prevent its recurrence, to remedy its effects, if any, and to discipline those responsible.

5. Confidentiality

The NSHE recognizes that confidentiality is important. However, in some limited circumstances confidentiality cannot be guaranteed. The administrators, faculty or staff responsible for implementing this policy will respect the privacy of individuals reporting or accused of unlawful discrimination or harassment to the extent reasonably possible and will maintain confidentiality to the extent possible. Examples of situations where confidentiality cannot be maintained include, but are not limited to, necessary disclosures during an investigation, circumstances where the NSHE is required by law to disclose information (such as in response to legal process), or when an individual is in harm's way.

a. Confidentiality in Complaints Involving Unlawful Discrimination or Harassment. In complaints involving unlawful discrimination or harassment the following applies:

- i. Varying Confidentiality Obligations. In situations involving unlawful discrimination or harassment, individuals are encouraged to talk to somebody about what happened in order for them to receive the support they need. Different individuals at the institution have different abilities to maintain an individual's confidentiality:
 - Some are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
 - Other employees may talk to an individual in confidence, and generally only report to the institution that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger investigation into an incident against the individual's wishes, except in certain circumstances discussed below.
 - Some employees are required to report all the details of an incident (including the identities of all involved) to the Title IX Coordinator. A report to these employees (called "officials with authority") constitutes a report to the institution – and generally obligates the institution to investigate the incident and take appropriate steps to address the situation.

This policy is intended to make employees, students and others aware of the various reporting and confidential disclosure options available to them so they can make informed choices about where to turn should they want to report an act of sexual violence. The institution encourages individuals to talk to someone identified in one or more of these groups.

- ii. Privileged and Confidential Communications. A complainant or respondent may wish to consult with professional counselors, pastoral counselors or

others. Certain professionals are not required to report incidents unless they have been granted permission:

- Professional Counselors. Professional, licensed counselors who provide mental-health counseling to members of the institution community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a complainant's permission.
- Pastoral Counselors. A complainant and/or a respondent may choose to consult with a non-institution pastoral counselor and is encouraged to discuss confidentiality with that individual.
- Under Nevada law other professionals who may maintain confidentiality include lawyers, psychologists, doctors, social workers, and victim's advocates as defined in NRS 49.2545.
- Off-Campus Counselors and Advocates. Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and will not share information with the institution unless the individual requests the disclosure and signs a consent or waiver form.

- iii. Complainant Options. A complainant who reports an act of unlawful discrimination or harassment only to a professional listed above in Subsection 2 of Subsection a of Subsection 5 must understand that, if they want to maintain confidentiality, the institution will be unable to conduct a full investigation into the incident and will likely be unable to pursue disciplinary action against the respondent.

A complainant who at first requests confidentiality may later decide to file a complaint with the institution or report the incident to local law enforcement, and thus have the incident fully investigated. A complainant shall be assisted in reporting the incident to local law enforcement if the complainant requests such assistance.

Other Reporting Obligations: While professional counselors may maintain a complainant's confidentiality vis-à-vis the institution, they may have reporting or other obligations under state law. For example, there may be an obligation to report child abuse, an immediate threat of harm to self or others, or to report in the case of hospitalization for mental illness.

NSHE Employee Assistance Program providers would follow these guidelines, as would professionals in NSHE institution student counseling and psychological services areas, and professionals in community health clinics that reside on or are associated with NSHE institutions.

b. Reporting to "Officials with Authority"²

² Note: Campus Security Authorities, who are designated by the institutions in accordance with Clery Act requirements, have an independent responsibility to report sexual and other crimes (which may be reported anonymously) to campus police.

- i. “Officials with Authority” Defined and Duties. An official with authority” is the institution’s Title IX Coordinator or any official of the institution who has authority to institute corrective measures on behalf of the institution, including the President, Vice Presidents, Provost, Vice Provosts, Human Resources Director, and those designated by the President. When a complainant or other person reports an incident of unlawful discrimination or harassment to an official with authority, they have the right to expect the institution to take prompt and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

An official with authority must report to the Title IX Coordinator all relevant details about the alleged unlawful discrimination or harassment shared by the reporting individual and that the institution will need to determine what happened – including the name(s) of the complainant, respondent(s) and any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. To the extent possible, information reported to an official with authority will be shared only with people responsible for handling the institution’s response to the report. An official with authority should not share information with law enforcement without the complainant’s consent or unless the complainant has also reported the incident to law enforcement.
- ii. Requesting Confidentiality From the Institution: How the Institution Will Weigh the Request and Respond.
 - a. Request for Confidentiality. If a complainant discloses an incident to an official with authority but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the institution will weigh that request against the institution’s obligation to provide a safe, non-discriminatory environment for everyone, including the complainant, after the official with authority reports the incident to the Title IX Coordinator. If the institution honors the request for confidentiality, a complainant will be informed that the institution’s ability to investigate the incident and pursue disciplinary action against the respondent may be limited.

There are times when, in order to provide a safe, non-discriminatory environment for all, the institution may not be able to honor a complainant’s request for confidentiality. The institution shall designate an individual to evaluate requests for confidentiality made by a complainant.
 - b. Factors to Be Considered. When weighing a complainant’s request for confidentiality or a complainant’s request that no investigation or discipline be pursued, the institution will consider a range of factors, including the following:
 - i) The increased risk that the identified respondent will commit additional acts of violence, discrimination or harassment, such as:

- whether there have been other misconduct, violence, discrimination or harassment complaints about the same respondent;
- whether the respondent has a history of arrests or other records indicating a history of violence, discrimination or harassment;
- whether the respondent threatened violence, discrimination or harassment against the complainant or others;
- whether the violence, discrimination or harassment was committed by multiple persons;
- whether the circumstances of the incident indicate that the behavior was planned by the respondent or others;
- Whether the reported violence, discrimination or harassment was committed with a weapon;
- Whether the complainant is a minor;
- Whether the institution possesses other means to obtain relevant evidence of the reported violence, discrimination or harassment (e.g., security cameras or personnel, physical evidence);
- Whether the complainant's information reveals a pattern of behavior (e.g., illicit use of drugs, alcohol, coercion, intimidation) at a given location or by a particular group;
- Other factors determined by the institution that indicate the respondent may repeat the behavior or that others may be at risk.

Based on one or more of these factors, the institution may decide to investigate and, if appropriate, pursue disciplinary action even though the complainant requested confidentiality or requested that no investigation or disciplinary action be undertaken. If none of these factors is present, or if any or all of these factors are present to an insufficient degree, the institution will work to respect the complainant's request for confidentiality.

- c. **Actions After Decision to Disclose.** If the institution decides that a complainant's confidentiality cannot be maintained, the institution will inform the complainant in writing or via email prior to starting an investigation and the institution will, to the extent possible, only share information with people responsible for handling the institution's response. ***The institution shall inform the respondent that the complainant asked the institution not to take investigative or disciplinary action against the respondent.***

The institution will inform any individual involved in the matter that retaliation is prohibited and will take steps to protect such individual(s) from retaliation or harm. Retaliation will not be tolerated. The institution will also:

1. Determine whether interim measures should be implemented in accordance with Subsection B;
2. Inform any individual involved in the matter of the right to report a crime to the institution and/or local law enforcement and to have a criminal investigation proceed simultaneously; and
3. Provide any individual involved in the matter with assistance if they wish to report a crime.

The institution will not require any individual involved in the matter to participate in any investigation or disciplinary proceeding.

Because the institution is under a continuing obligation to address the issue of sexual violence institution-wide, reports of sexual violence (including non-identifying reports) will also prompt the institution to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/ complainant surveys; and/or revisiting its policies and practices.

Issuance of Timely Warning: If the institution determines that any individual involved in the matter poses a serious and immediate threat to the institution community, police or security services may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the complainant.

- d. Reports to Other NSHE Institutions. If an official with authority receives a complaint about unlawful discrimination or harassment that has occurred at another NSHE institution or to a student or employee of another NSHE institution, the official with authority shall report the information to the institution's Title IX Coordinator, who shall provide the information to the Title IX Coordinator at the other NSHE institution.
- e. Public Awareness Events – Not Notice to the Institution. Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or other forums in which individuals disclose incidents of unlawful discrimination or harassment, are not considered notice to the institution of unlawful discrimination or harassment for purposes of triggering the institution's obligation to investigate any particular incident(s). Such events may, however, inform the need for institution-wide education and prevention efforts, and the Institution will provide information about individuals' rights at these events.
- f. ***Disclosures in written assignments – Not Notice to the Institution. If a student makes a disclosure of an incident of unlawful discrimination or harassment in a written assignment, such disclosure is not considered notice to the institution of unlawful discrimination or harassment for purposes of triggering the institution's obligation to investigate any particular incident(s).***

6. Retaliation

Retaliation against an individual who in good faith complains of unlawful discrimination or harassment or provides information in an investigation about behavior that may violate this policy is against the law, will not be tolerated, and may be grounds for discipline. Retaliation in violation of this policy may result in discipline up to and including termination and/or expulsion. Any employee or student bringing an unlawful discrimination or harassment complaint or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint. Intentionally providing false information is also grounds for discipline.

“Retaliation” may include, but is not limited to, such conduct as:

- the denial of adequate personnel to perform duties;
- frequent replacement of members of the staff;
- frequent and undesirable changes in the location of an office;
- the refusal to assign meaningful work;
- unwarranted disciplinary action;
- unfair work performance evaluations;
- a reduction in pay;
- the denial of a promotion;
- a dismissal;
- a transfer;
- frequent changes in working hours or workdays;
- an unfair grade;
- an unfavorable reference or reference letter;
- intentionally providing false information.

a. Employees

1. An employee who believes that they have been subjected to retaliation may file a retaliation complaint with their immediate supervisor, who will in turn immediately contact the Title IX Coordinator.
2. If the employee feels uncomfortable about discussing the alleged retaliation with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with the Title IX Coordinator.
3. After receiving any employee’s complaint of an incident of alleged retaliation, the supervisor will immediately contact the Title IX Coordinator to discuss it and/or to report the action taken. The supervisor has a responsibility to act even if the individuals involved do not report to that supervisor.

b. Students

1. A student who believes that they have been subjected to retaliation may file a retaliation complaint with their major department chair or director of an administrative unit, who will in turn immediately contact the Title IX Coordinator.
2. If the student feels uncomfortable about discussing the alleged retaliation with the department chair or director of an administrative unit, the student should feel free to bypass the person and file a complaint with the Title IX Coordinator.

7. False Reports

Because unlawful discrimination and harassment frequently involve interactions between persons that are not witnessed by others, reports of unlawful discrimination or harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or "proof" should not discourage individuals from reporting unlawful discrimination or harassment under this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth, may be subject to disciplinary action under the applicable institution and Board of Regents disciplinary procedures. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by subsequent investigation.

8. Supervisor Responsibilities

Every supervisor of employees has responsibility to take reasonable steps intended to prevent acts of unlawful discrimination or harassment, which include, but are not limited to:

- a. Monitoring the work and school environment for signs that unlawful discrimination or harassment may be occurring;
- b. Refraining from participation in, or encouragement of actions that could be perceived as unlawful discrimination or harassment (verbal or otherwise);
- c. Stopping any observed acts that may be considered unlawful discrimination or harassment, and taking appropriate steps to intervene, whether or not the involved individuals are within their line of supervision; and
- d. Taking immediate action to minimize or eliminate the work and/or school contact between the involved individuals where there has been a complaint of unlawful discrimination or harassment, pending investigation.

If a supervisor receives a complaint of unlawful discrimination or harassment, or observes or becomes aware of conduct that may constitute unlawful discrimination or harassment, the supervisor must immediately contact the Title IX Coordinator to provide the information about the conduct, to discuss it and/or to report the action taken.

Failure to take action to prevent the occurrence of or stop known unlawful discrimination or harassment may be grounds for disciplinary action.

9. Amnesty for Reports of Non-Title IX Discrimination and/or Harassment Under Certain Circumstances

NSHE encourages individuals to report incidents of sexual violence and sexual harassment without fear of negative consequences for other policy violations that occur at or around the same time period of the reported sexual violence or sexual harassment. To support such reporting, an NSHE institution may not subject an individual to a disciplinary proceeding or sanction for a violation of the NSHE Handbook, the NSHE institutional policy, and/or the NSHE institution's applicable Student Code of Conduct unless the NSHE institution determines, in its sole discretion, any report of an alleged incident of sexual misconduct was not made in good faith or the individual's violation of the NSHE Handbook, the NSHE institutional policy, and/or the NSHE institution's applicable Student Code of Conduct was egregious. Examples of egregious violations include, but are not limited to, being the one that initiated the sexual violence or sexual harassment, or through negligence, contributed to the sexual violence or sexual harassment, or other sexual misconduct, driving under the influence, manufacturing/distribution/delivery of illegal drugs, possessing with intent to manufacture/distribute/deliver illegal drugs, relationship violence, stalking, hazing, or other conduct that risked someone's health or safety. The NSHE institution determines, in its sole discretion, whether a report was not made in good faith and what conduct constitutes an egregious violation.

An individual may be particularly afraid to report certain conduct when alcohol, drugs, or other intoxicants are involved. Except for egregious violations, this amnesty policy applies when alcohol, drugs, or other intoxicants are involved, including underage drinking.

In circumstances where amnesty is determined to be applicable but there are concerns that an individual's repeat or severe misuse of alcohol or other substances will result in additional harm if unaddressed, the NSHE institution may impose educational and/or other appropriate sanctions to address such concerns.

This policy only provides amnesty from violations of NSHE Handbook, the NSHE institutional policy, and/or the NSHE institution's applicable Student Code of Conduct. It does not grant amnesty for criminal, civil or other legal consequences for violations of Federal, State or Local law. Civil and/or criminal investigations and other legal processes from governmental agencies outside of the NSHE institution may still proceed at the discretion of the outside governmental agency. Also, in some instances, University Police Services may be required by law to report an incident to local law enforcement agencies. For information regarding legal immunity from certain offenses related to drug or alcohol overdose or other medical emergency, please see NRS 453C.150.

10. Relationship to Freedom of Expression

NSHE is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental rights and this policy is not intended to stifle teaching methods or freedom of expression. Unlawful discrimination or harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of institutions, the tradition of intellectual freedom and the trust placed in the institutions by their members.

D. Sexual Harassment under Title IX

NSHE and its member institutions do not discriminate on the basis of sex in their education programs and activities. Title IX of the Education Amendments Act of 1972, 20 U.S.C. § 1861(a), provides:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Title IX applies to every single aspect of education, including course offerings, counseling and counseling materials, financial assistance, student health and insurance benefits and/or other services, housing, marital and parental status of students, physical education and athletics, education programs and activities sponsored by the institution, and employment.

IMPACT OF MODIFICATIONS OF THE FINAL RULE UNDER TITLE IX

Should any portion of the Final Rule be stayed or held invalid by a court of law, or should the Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Section process be revoked in this manner, any conduct that would have been covered under the Title IX Section D process shall be investigated and adjudicated under the existing Non-Title IX Sections (A), (B), and (C) process.

1. Designation of Coordinator, dissemination of policy, and adoption of complaint procedures
 - a. Each President of NSHE's eight (8) institutions and the Chancellor for NSHE's System Administration offices shall designate and authorize an individual to serve as the Title IX Coordinator for the institution who shall be tasked with coordinating the institution's efforts to comply with its responsibilities under this Section. The institution must notify applicants for admission or employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the institution, of the name or title, office address, electronic mail address, and telephone number of the individual designated as the Title IX Coordinator.

- b. Each institution must prominently display the contact information for the Title IX Coordinator on its website, if any, and in each handbook, or catalog that it makes available to persons entitled to a notification under paragraph (a) of this Section. Each institution must notify persons entitled to a notification under paragraph (a) of this Section that the institution does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to the institution may be referred to the institution's Title IX Coordinator, to the Assistant Secretary of the Department of Education, or both.
- c. Each institution must adopt and publish complaint procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited under this Section and a complaint process that complies with Subsection 5 for formal complaints as defined in Subsection 2. An institution must provide to persons entitled to a notification under paragraph (a) of this Section notice of the institution's complaint procedures and complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the institution will respond.
- d. ***Each institution, in addition to other training specifically outlined in this subsection D, must ensure that all individuals involved in responding to, investigation of, or the adjudication of any complaint based in sexual violence, have the Specialized training in regards to Sexual Violence outlined in Subsection C, 3(b.)***

2. Definitions

- a. "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- b. "Respondent" means an individual who has been reported ~~[be]~~ **by** the individual engaging in the conduct that could constitute sexual harassment.
- c. "Reporting Party" means any person who reports sexual harassment or conduct that could constitute sexual harassment, whether or not the person reporting is the person alleged to be the victim.
- d. "Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:
 - i. An employee of a NSHE institution conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;
 - ii. Unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity; or

- iii. Sexual assault, as defined by the Clery Act, 34 C.F.R. § 668.46(a), as amended by the Violence Against Women Act of 1994, including but not limited to dating violence, domestic violence, and stalking.

For the purposes of this definition, “education program or activity” includes locations, events, or circumstances over which an institution exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by an institution, which may include but is not limited to recognized fraternity, sorority, or student organizations. This definition does not apply to persons outside the United States.

For the purposes of this definition, “sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation’s Uniform Crime Reporting Program.

“Rape” means penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

“Fondling” means the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

“Incest” means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

“Statutory rape” means sexual intercourse with a person who is under the statutory age of consent (16 years old).

“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

“Domestic violence” means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

“Stalking” means engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or suffer substantial emotional distress.

- e. “Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the institution investigate the allegation of sexual harassment.
- f. “Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.
- g. “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to an institution’s Title IX Coordinator or any official of the institution who has authority to institute corrective measures on behalf of the institution, including the President, Vice Presidents, Provost, Vice Provosts, Human Resources Director, and those designated by the President.

Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the institution with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform an individual about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the institution.

- h. “Institution” means any and all of NSHE’s eight (8) institutions, including the College of Southern Nevada; the Desert Research Institute; Great Basin College; Nevada State College; Truckee Meadows Community College; the University of Nevada, Las Vegas; the University of Nevada, Reno; and Western Nevada College, and NSHE’s System Administration offices.
- i. “Consent” means an affirmative, clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity.
 - Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent.
 - Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
 - The existence of a dating relationship or past sexual relations between the participants does not constitute consent to any other sexual act.
 - Affirmative consent must be ongoing throughout the sexual activity and may be withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop.
 - Consent cannot be given when it is the result of any coercion, intimidation, force, deception, or threat of harm.
 - Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to

participate in sexual activity. Incapacitation includes: impairment due to drugs or alcohol (whether such use is voluntary or involuntary); inability to communicate due to a mental or physical condition; the lack of consciousness or being asleep; being involuntarily restrained; if any of the parties are under the age of 16; or if an individual otherwise cannot consent.

- The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

3. Response to Sexual Harassment

An institution with actual knowledge of sexual harassment allegations in an education program or activity of the institution, as all defined in Subsection 2, against a person in the United States must respond promptly in a manner that is not deliberately indifferent. An institution is "deliberately indifferent" only if its response to sexual harassment allegations is clearly unreasonable in light of the known circumstances.

An institution's response must treat complainants and respondents equitably by offering supportive measures as defined in Subsection f of Subsection 2 to all parties, and by following a complaint process that complies with Subsection 5 before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in Subsection f of Subsection 2 against a respondent.

An institution shall provide this policy which addresses supportive measures to both complainants and respondents.

The institution's Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures as defined in Subsection f of Subsection 2, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. An institution's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

Depending on the specific nature of the problem, supportive measures and remedies may include, but are not limited to:

For Students:

- a. Issuing a ***mutual*** no-contact directive(s);
- b. Providing an ~~[effective]~~ escort to ensure safe movement between classes and activities;
- c. Not sharing classes or extracurricular activities;
- d. Moving to a different residence hall;

- e. Providing written information regarding institution and community services including but not limited to medical, counseling and academic support services, such as tutoring;
- f. Providing extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- g. ***Taking a leave of absence;***
- h. Restricting to online classes;
- i. Providing information regarding campus transportation options;
- j. Reviewing any disciplinary actions taken against the complainant or the respondent to see if there is a connection between the sexual misconduct and the misconduct that may have resulted in the complainant or the respondent being disciplined³; and
- k. Requiring the parties to report any violations of these restrictions.

For Employees:

- a. Providing an ~~[effective]~~ escort to ensure safe movement between work area and/or parking lots/other campus locations;
- b. Issuing a ***mutual*** no-contact directive(s);
- c. Placement on ***leave***; ~~[paid leave (not sick or annual leave);~~
- d. ~~Placement on administrative leave-];~~ Transfer to a different area/department or shift in order to eliminate or reduce further business/social contact;
- e. Providing information regarding campus transportation options;
- f. Instructions to stop the conduct;
- g. Providing information regarding institution and community services including medical, counseling and Employee Assistance Program;
- h. Reassignment of duties;
- i. Changing the supervisory authority; and
- j. Directing the parties to report any violations of these restrictions.

All institution administrators, academic and administrative faculty, and staff are responsible for carrying out the supportive measures and remedies.

Supportive measures and remedies may include restraining orders, or similar lawful orders issued by the institution, criminal, civil or tribal courts. Supportive measures and remedies will be confidential to the extent that such confidentiality will not impair the effectiveness of such measures or remedies.

Remedies may also include review and revision of institution sexual misconduct policies, increased monitoring, supervision or security at locations where

³ For example, if one party was disciplined for skipping a class in which the other party was enrolled, the institution should review the incident to determine if class was skipped to avoid contact with the other party.

incidents have been reported; and increased and/or targeted education and prevention efforts.

Any supportive measures or remedies shall be monitored by the Title IX Coordinator throughout the entire process to assess whether the supportive measures or remedies meet the goals of preventing [ongoing] harassment or discrimination, protecting the safety of the parties, restoring access to the institution's education programs and activities, and preventing retaliatory conduct.

In responding to allegations of sexual harassment, an institution shall not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

4. Response to a Formal Complaint

- a. In response to a formal complaint, an institution must investigate the allegations contained therein and follow a complaint process that complies with Subsection 5. With or without a formal complaint, an institution must comply with Subsection 3.
- b. Nothing in this Subsection precludes an institution from removing a respondent from the institution's education program or activity on an emergency basis, provided that the institution undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.
- c. Nothing in this Subsection precludes an institution from placing a non-student employee respondent on administrative leave during the pendency of a complaint process that complies with Subsection 5. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.
- d. An institution may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a complaint process involves more than one complainant or more than one respondent, references in this Section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

5. General complaint process requirements. Institutions shall:

- a. Permit any person to report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in

- person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator;
- b. Promote impartial investigations and adjudications of formal complaints of sexual harassment;
 - c. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a complaint process that complies with this Section before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in Subsection f of Subsection 2 against a respondent. Remedies must be designed to restore or preserve equal access to the institution's education program or activity. Such remedies may include the same individualized services described in Subsection f of Subsection 2 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;
 - d. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;
 - e. Ensure that the Title IX Coordinator, investigator, hearing officer, and any person designated by an institution to facilitate an informal resolution process, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
 - f. Ensure that the Title IX Coordinator, investigator, hearing officer, and any person designated by an institution to facilitate an informal resolution process receive training on the definition of sexual harassment in Subsection 2, the scope of the institution's education program or activity, how to conduct an investigation and complaint process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
 - g. Ensure, in coordination with the NSHE Chief General Counsel, that hearing officers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in Subsection d of Subsection 8;
 - h. Ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in Subsection d of Subsection 8;
 - i. Ensure that any materials used to train Title IX Coordinators, investigators, hearing officers, and any person who facilitates an informal resolution process, do not rely on sex stereotypes;

- j. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the complaint process;
 - k. Establish a reasonably prompt time frame for conclusion of the complaint process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the institution offers informal resolution processes, and a process that allows for the temporary delay of the complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The institution must establish a reasonably prompt time frame that complies with the procedures outlined in Chapter 284 of the *Nevada Administrative Code* for classified employees, Chapter 289 of the *Nevada Administrative Code* for law enforcement, Chapter 6 of the NSHE Code for professional employees, [and] Chapter 10 of the NSHE Code or applicable code of conduct for students, **or any associated collective bargaining agreement**. Institutions may establish different time frames for different types of cases (e.g., sexual assault, domestic violence, dating violence, etc.);
 - l. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the institution may implement following any determination of responsibility;
 - m. State that the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard, and must apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and must apply the same standard of evidence to all formal complaints of sexual harassment. "Preponderance of the evidence" means the evidence establishes that it is more likely than not that the prohibited conduct occurred;
 - n. Include the procedures and permissible bases for the complainant and respondent to appeal a written determination;
 - o. Describe the range of supportive measures available to complainants and respondents;
 - p. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege; and
 - q. Require any party to assert that the Title IX Coordinator, investigator(s), or hearing officer(s) has a conflict of interest or bias against complainants or respondents generally or the individual complainant or respondent at the time the party knew or should have known of such conflict of interest or bias.
6. Complaint Procedures
- a. Upon receipt of a formal complaint, an institution must provide the following written notice to the parties who are known:

- i. Notice of the institution's complaint process that complies with this Section, including any informal resolution process; and
 - ii. Notice of the allegations potentially constituting sexual harassment as defined in Subsection 2, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. "Sufficient details" include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under Subsection 2, and the date and location of the alleged incident, if known. This written notice also must:
 - a) Include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process;
 - b) Inform the parties that they may have an advisor of their choice under Subsection d of Subsection 7 who may be, but is not required to be, an attorney, and may inspect and review evidence under Subsection 7; and
 - c) Consistent with Section 13, inform the parties of the prohibition against knowingly making false statements or knowingly submitting false information during the complaint process.
 - b. If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to Subsection a of Subsection 6, the institution must provide notice of the additional allegations to the parties whose identities are known.
7. Dismissal of formal complaint
- a. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in Subsection 2 even if proved, did not occur in the institution's education program or activity, or did not occur against a person in the United States, then the institution must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. Such a dismissal does not preclude action under another provision of the Board of Regents' *Handbook*, NSHE Code, or institution's code of conduct.
 - b. The institution may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:
 - i. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - ii. The respondent is no longer enrolled or employed by the institution; or
 - iii. Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- c. Upon a dismissal required or permitted pursuant to Subsections i and ii of Subsection c of Subsection 6, the institution must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.
8. Investigation of a Formal Complaint. The institution investigating a formal complaint must:
- a. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the institution and not on the parties, provided that the institution cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the institution obtains that party's voluntary, written consent to do so for a complaint process under this Section (if a party is not an "eligible student," as defined in 34 CFR 99.3, then the institution must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3);
 - b. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
 - c. Avoid restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
 - d. Provide the parties with the same opportunities to have others present during any complaint proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or complaint proceeding. However, an institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to all parties;
 - e. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
 - f. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;
 - g. Prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The institution must make all such evidence subject

- to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- h. Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing (if a hearing is required under this Section or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. Each party's written response, if any, shall be submitted to the investigator at least three (3) days prior to the live hearing.
9. Live Hearings
- a. An institution must hold a live hearing over which a hearing officer presides. The hearing officer cannot be the same person as the Title IX Coordinator or the investigator(s) and must be selected in consultation with the NSHE Chief General Counsel.
 - b. At the live hearing, the hearing officer must permit each party's advisor during cross-examination to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the institution under Subsection d of Subsection 7 to otherwise restrict the extent to which advisors may participate in the proceedings.
 - c. The live hearing may be conducted with all parties physically present in the same geographic location or, at the institution's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the institution must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer(s) and parties to simultaneously see and hear the party or the witness answering questions.
 - d. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. For the purposes of this Section, "relevant" means a question or evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the question or evidence. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's

prior sexual behavior with respect to the respondent and are offered to prove consent.

- e. If a party does not have an advisor present at the live hearing, the institution must provide, without fee or charge to that party, an advisor of the institution's choice, who shall not be an attorney, to conduct cross-examination on behalf of that party. Such advisors need not be provided with specialized training because the essential function of such an advisor provided by the institution is not to "represent" a party but rather to relay the party's cross-examination questions that the party wishes to have asked of other parties or witnesses so that parties never personally question or confront each other during a live hearing.
 - f. If a party or witness does not submit to cross-examination at the live hearing, the hearing officer(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
 - g. Institutions must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
 - h. Nothing in this Subsection shall be construed to impair rights under the U.S. Constitution, including but not limited to the Fifth Amendment, or privileges recognized by statute or common law.
10. Determination Regarding Responsibility.
- a. The decision-maker, or hearing officer(s) as appropriate, must issue a written determination regarding responsibility under the preponderance of the evidence standard within 14 calendar days of the live hearing.
 - b. The written determination must include:
 - i. Identification of the allegations potentially constituting sexual harassment as defined in Subsection 2;
 - ii. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - iii. Findings of fact supporting the determination;
 - iv. Conclusions regarding the application of the institution's code of conduct to the facts;
 - v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the institution imposes on the respondent, and whether remedies designed to restore or preserve equal access to the institution's education program or activity will be provided by the institution to the complainant; and
 - vi. The institution's procedures and permissible bases for the complainant and respondent to appeal.

- c. The institution must provide the written determination regarding responsibility to the parties simultaneously. The written determination becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

11. Appeals

- a. Within five (5) calendar days, any party may appeal from a determination regarding responsibility, and from an institution's dismissal of a formal complaint or any allegations therein, on the following bases:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - iii. The Title IX Coordinator, investigator(s), or hearing officer(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and
 - iv. Any additional basis offered by an institution.
- b. As to all appeals, the institution must:
 - i. Immediately notify the other party in writing when an appeal is filed;
 - ii. Ensure that the decision-maker for the appeal is not the same person as the hearing officer(s) or decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
 - iii. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in Subsections e-i of Subsection 5;
 - iv. Give all parties an equal opportunity to submit a written statement in support of, or challenging, the outcome within five (5) calendar days of the outcome;
 - v. Issue a written decision within five (5) calendar days of receiving a written statement in support of, or challenging, the outcome describing the result of the appeal and the rationale for the result; and
 - vi. Provide the written decision simultaneously to all parties.
- c. The review on appeal is limited to the record, except in appeals based on newly discovered evidence that could affect the outcome of the matter and that was not reasonably available at the time the determination regarding responsibility or dismissal was made. In such appeals, newly discovered evidence may be considered on appeal notwithstanding its absence from the record.

12. Provides Informal Resolution

- a. If a formal complaint of sexual harassment is filed, and at any time prior to reaching a determination regarding responsibility, an institution may offer the parties the option of informal resolution and may facilitate an informal

resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the institution:

- i. Provides to the parties a written notice disclosing the allegations; setting forth the requirements of the informal resolution process, including the circumstances under which the process's agreed upon resolution precludes the parties from resuming a formal complaint arising from the same allegations; and explaining that any statements made or documentation or information provided by a party during the informal resolution process shall not be used or relied upon in a subsequent complaint process or live hearing without the permission of the party who made the statement or provided the documentation or information;
 - ii. Obtains the parties' voluntary, informed written consent to the informal resolution process; and
 - iii. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- b. Institutions must provide the parties with a written notice explaining that, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the complaint process with respect to the formal complaint, and withdraw from any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
 - c. An institution shall not require the parties to participate in an informal resolution process for any reason, and shall not require waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this Section as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.
 - d. An individual serving as a facilitator of an informal resolution process shall not be the Title IX Coordinator, Title IX investigator, Title IX hearing officer, witness, or other institutional employee that has a duty to disclose allegations of sexual harassment to the institution.

13. Recordkeeping

- a. An institution must maintain for a period of at least seven (7) years records of:
 - i. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under Subsection g of Subsection 8, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the institution's education program or activity;
 - ii. Any appeal and the result therefrom;
 - iii. Any informal resolution and the result therefrom; and
 - iv. All materials used to train Title IX Coordinators, investigators, hearing officers, decision-makers, and any person who facilitates an informal resolution process. An institution must make these training materials

publicly available on its website, or if the institution does not maintain a website the institution must make these materials available upon request for inspection by members of the public;

- v. For each response required under Subsections 3 and 4, an institution must create, and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the institution must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the institution's education program or activity. If an institution does not provide a party with supportive measures, then the institution must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the institution in the future from providing additional explanations or detailing additional measures taken.

14. False Reports. Because discrimination and sexual harassment frequently involve interactions between persons that are not witnessed by others, reports of discrimination or sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or "proof" should not discourage individuals from reporting discrimination or sexual harassment under this policy. However, individuals who knowingly make false reports or submit false information during the complaint process may be subject to disciplinary action under the applicable institution and Board of Regents disciplinary procedures. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by subsequent investigation.

15. Retaliation

- a. Retaliation Prohibited. No institution or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation. The institution must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to have engaged in sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA),

20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the complaint procedures for sex discrimination under Subsection C.

b. Specific circumstances

- i. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under Subsection a of this Subsection.
- ii. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a complaint proceeding under this part does not constitute retaliation prohibited under Subsection a of this Subsection, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

16. Amnesty for Reports of Title IX Discrimination and/or Harassment Under Certain Circumstances

NSHE encourages individuals to report incidents of sexual violence and sexual harassment without fear of negative consequences for other policy violations that occur at or around the same time period of the reported sexual violence or sexual harassment. To support such reporting, an NSHE institution may not subject an individual to a disciplinary proceeding or sanction for a violation of the NSHE Handbook, the NSHE institutional policy, and/or the NSHE institution's applicable Student Code of Conduct unless the NSHE institution determines, in its sole discretion, any report of an alleged incident of sexual misconduct was not made in good faith or the individual's violation of the NSHE Handbook, the NSHE institutional policy, and/or the NSHE institution's applicable Student Code of Conduct was egregious. Examples of egregious violations include, but are not limited to, being the one that initiated the sexual violence or sexual harassment, or through negligence, contributed to the sexual violence or sexual harassment, or other sexual misconduct, driving under the influence, manufacturing/distribution/delivery of illegal drugs, possessing with intent to manufacture/distribute/deliver illegal drugs, relationship violence, stalking, hazing, or other conduct that risked someone's health or safety. The NSHE institution determines, in its sole discretion, whether a report was not made in good faith and what conduct constitutes an egregious violation.

An individual may be particularly afraid to report certain conduct when alcohol, drugs, or other intoxicants are involved. Except for egregious violations, this amnesty policy applies when alcohol, drugs, or other intoxicants are involved, including underage drinking.

In circumstances where amnesty is determined to be applicable but there are concerns that an individual's repeat or severe misuse of alcohol or

other substances will result in additional harm if unaddressed, the NSHE institution may impose educational and/or other appropriate sanctions to address such concerns.

This policy only provides amnesty from violations of NSHE Handbook, the NSHE institutional policy and/or the NSHE institution's applicable Student Code of Conduct. It does not grant amnesty for criminal, civil or other legal consequences for violations of Federal, State or Local law. Civil and/or criminal investigations and other legal processes from governmental agencies outside of the NSHE institution may still proceed at the discretion of the outside governmental agency. Also, in some instances, University Police Services may be required by law to report an incident to local law enforcement agencies. For information regarding legal immunity from certain offenses related to drug or alcohol overdose or other medical emergency, please see NRS 453C.150.

17. Relationship to Freedom of Expression

NSHE is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental rights and this policy is not intended to stifle teaching methods or freedom of expression. Unlawful discrimination or harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of institutions, the tradition of intellectual freedom and the trust placed in the institutions by their members.

18. This Subsection D shall become effective on ~~[August 14, 2020.]~~

(B/R 8/20)

CHAPTER.....

AN ACT relating to discrimination; prohibiting certain types of discrimination relating to race in employment and education; revising provisions governing the authority of the Nevada Equal Rights Commission to investigate certain acts of prejudice against a person with regard to employment; revising provisions governing the procedures used by and notices given by the Nevada Equal Rights Commission; establishing certain requirements for testing which is used by a county or city for a decision regarding promotion of an employee; revising provisions governing the subjects that are subject to negotiation for certain collective bargaining agreements; revising provisions governing the policy for all school districts and schools in this State to provide a safe and respectful learning environment; establishing certain requirements for testing which is used by a school district for a decision regarding promotion of an employee; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes that it is the policy of this State to foster the right of all persons to reasonably seek, obtain and hold employment without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, gender identity or expression, national origin or ancestry. (NRS 233.010) In addition, existing law prohibits certain employers, employment agencies, labor organizations, joint labor-management committees or contractors from engaging in certain discriminatory employment practices. For example, it is an unlawful employment practice to fail to hire or to fire or otherwise discriminate against a person, or to limit or segregate or classify an employee on the basis of race, color, religion, sex, sexual orientation, age, disability or national origin, except in certain circumstances. (NRS 338.125, 613.330, 613.340, 613.350, 613.380) **Sections 1, 3, 2, 4, 9 and 14** of this bill define “race” to include traits associated with race, including, without limitation, hair texture and protective hairstyles. Similar protections are provided in other contexts by the following sections. **Section 10** of this bill defines “race” to include traits associated with race for the purpose of prohibiting discrimination on the basis of race within the State Personnel System. (NRS 284.150, 284.385) **Section 12** of this bill revises provisions governing relations with local government employers to prohibit discrimination on the basis of traits associated with race. (NRS 288.270) **Section 15** of this bill revises the restrictions for commercial advertising on a school bus by prohibiting advertising that attacks groups based on traits associated with race. (NRS 386.845) **Section 16** of this bill prohibits a dress code or policy that requires pupils to wear school uniforms to discriminate against a pupil based on race. (NRS 386.855) **Sections 21, 22 and 25** of this bill prohibit discrimination based upon traits associated with race for enrollment in a charter school, a university school for profoundly gifted pupils or the Nevada System of Higher Education. (NRS



388A.453, 388C.010, 396.530) **Section 24** of this bill prohibits a pupil from being disciplined based on his or her race.

Existing law authorizes the Nevada Equal Rights Commission to investigate tensions, practices of discrimination and acts of prejudice against any person with regard to employment based on race, color, creed, sex, age, disability, gender identity or expression, national origin or ancestry. (NRS 233.150) Existing law provides that, if the Commission does not conclude that an unfair employment practice has occurred, the Commission is required to provide certain information to a complainant regarding his or her rights. (NRS 613.420) **Section 3** of this bill requires the Commission to provide the complainant with certain information relating to the filing of a charge alleging an unlawful employment practice with the United States Equal Employment Opportunity Commission and the process by which the Equal Employment Opportunity Commission conducts a review of the Nevada Equal Rights Commission's conclusion. **Section 5** of this bill defines "race" to include traits associated with race for the purpose of serving as the basis upon which the Commission may investigate an allegation of discrimination.

Sections 7, 8 and 23 of this bill set forth certain requirements governing testing that is used by a county, city or school district, respectively, for a decision regarding the promotion of an employee and make it a category E felony to tamper with the score of a test taken by an employee.

Existing law sets forth the subjects that are subject to negotiation with an employee organization for the purposes of a collective bargaining agreement. (NRS 288.150) **Section 11** of this bill provides that the requirements governing testing that is used by a county, city or school district, respectively, for a decision regarding the promotion of an employee are not subject to such negotiation. **Section 13** of this bill makes conforming changes to revise internal references. (NRS 288.500)

Existing law requires the Department of Education to prescribe a policy for all school districts and schools in this State to provide a safe and respectful learning environment that is free of bullying and cyber-bullying, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.133) **Sections 18 and 19** of this bill define "protective hairstyle" and "race" for the purposes of those provisions which require safe and respectful learning environments and prohibit bullying and cyber-bullying. **Section 20** of this bill makes a conforming change to indicate the placement of **sections 18 and 19** within the Nevada Revised Statutes.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 610 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the protections in this chapter for hair texture and protective hairstyles, an employer may enforce health and safety requirements set forth in federal or state law.

Sec. 1.3. NRS 610.010 is hereby amended to read as follows:

610.010 As used in this chapter, unless the context otherwise requires:



1. "Agreement" means a written and signed agreement of indenture as an apprentice.

2. "Apprentice" means a person who is covered by a written agreement, issued pursuant to a program with an employer, or with an association of employers or an organization of employees acting as agent for an employer.

3. "Council" means the State Apprenticeship Council created by NRS 610.030.

4. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

5. "Executive Director" means the Executive Director of the Office of Workforce Innovation.

6. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

7. "Office of Workforce Innovation" means the Office of Workforce Innovation in the Office of the Governor created by NRS 223.800.

8. "Program" means a program of training and instruction as an apprentice in an occupation in which a person may be apprenticed.

9. *"Protective hairstyle" includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

10. *"Race" includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

11. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

~~10.7~~ 12. "State Apprenticeship Director" means the person appointed pursuant to NRS 610.110.

Sec. 1.7. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the protections in this chapter for hair texture and protective hairstyles, an employer may enforce health and safety requirements set forth in federal or state law.

Sec. 2. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.4383, inclusive, unless the context otherwise requires:

1. "Disability" means, with respect to a person:



(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. *"Protective hairstyle" includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

8. *"Race" includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

9. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 3. NRS 613.420 is hereby amended to read as follows:

613.420 1. If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.4383, inclusive, has occurred, the Commission shall issue:



(a) A letter to the person who filed the complaint pursuant to NRS 613.405 notifying the person of his or her rights pursuant to subsection 2. ~~[- and]~~

(b) A right-to-sue notice. The right-to-sue notice must indicate that the person may, not later than 90 days after the date of receipt of the right-to-sue notice, bring a civil action in district court against the person named in the complaint.

(c) To the person who filed the complaint pursuant to NRS 613.405, basic information relating to:

(1) Filing a charge alleging an unlawful employment practice with the United States Equal Employment Opportunity Commission; and

(2) The process by which the United States Equal Employment Opportunity Commission conducts a review of the Nevada Equal Rights Commission's conclusion pursuant to 42 U.S.C. § 2000e-5(b).

2. If the Nevada Equal Rights Commission has issued a right-to-sue notice pursuant to this section or NRS 613.412, the person alleging such a practice has occurred may bring a civil action in the district court not later than 90 days after the date of receipt of the right-to-sue notice for any appropriate relief, including, without limitation, an order granting or restoring to that person the rights to which the person is entitled under those sections.

Sec. 3.5. Chapter 233 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the protections in this chapter for hair texture and protective hairstyles, an employer may enforce health and safety requirements set forth in federal or state law.

Sec. 4. NRS 233.010 is hereby amended to read as follows:

233.010 1. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and obtain housing accommodations without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, gender identity or expression, national origin or ancestry.

2. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, national origin, ancestry or gender identity or expression.



3. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek, obtain and hold employment without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, gender identity or expression, national origin or ancestry. *As used in this subsection:*

(a) *“Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

(b) *“Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

4. It is recognized that the people of this State should be afforded full and accurate information concerning actual and alleged practices of discrimination and acts of prejudice, and that such information may provide the basis for formulating statutory remedies of equal protection and opportunity for all citizens in this State.

Sec. 5. NRS 233.150 is hereby amended to read as follows:

233.150 The Commission may:

1. Order its Administrator to:

(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin, ancestry or gender identity or expression and may conduct hearings with regard thereto.

(b) With regard to housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto.

(c) With regard to employment, investigate:

(1) Tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto; and

(2) Any unlawful employment practice by an employer pursuant to the provisions of NRS 613.4353 to 613.4383, inclusive, and may conduct hearings with regard thereto.

➡ As used in this paragraph, “race” includes traits associated with race, including, without limitation, hair texture and



protective hairstyles, as defined in paragraph (a) of subsection 3 of NRS 233.010.

2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.

Sec. 6. (Deleted by amendment.)

Sec. 7. Chapter 245 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4, notwithstanding the provisions of any collective bargaining agreement to the contrary, if a board of county commissioners, a county officer or any other person acting on behalf of a county includes testing as a factor in a decision regarding the vertical promotion of an employee:

(a) The testing must be conducted by a third party which is independent from the board of county commissioners, county officer or other person acting on behalf of the county, as applicable.

(b) A third party which conducts a test must send to each employee who takes the test a confidential electronic mail message which contains the employee's test score. The third party must send an employee's test score to the employee and the board of county commissioners, the county officer or other person acting on behalf of a county at the same time.

(c) The board of county commissioners, county officer or other person acting on behalf of the county shall not produce a list of the employees who took the test, ranked in order of their test scores, until after the third party which conducted the test has sent each employee his or her test score pursuant to paragraph (b).

(d) An employee who is aggrieved by his or her test score may appeal the testing process.

2. During the appeal process authorized by paragraph (d) of subsection 1:

(a) The employee who appeals the testing process is entitled to see:

(1) How his or her test was graded; and

(2) The questions which the employee answered incorrectly.



(b) The board of county commissioners, county officer or other person acting on behalf of the county, as applicable, shall ensure that the employee was ranked properly based on the employee's test score.

3. A person who tampers with the score of a test taken by an employee is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. The provisions of this section do not apply to a county department that has less than 200 employees.

5. As used in this section, "test" and "testing" includes, without limitation, a written test or oral board.

Sec. 8. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4, notwithstanding the provisions of any collective bargaining agreement to the contrary, if the governing body of an incorporated city or a city officer includes testing as a factor in a decision regarding the vertical promotion of an employee:

(a) The testing must be conducted by a third party which is independent from the governing body or city officer, as applicable.

(b) A third party which conducts a test must send to each employee who takes the test a confidential electronic mail message which contains the employee's test score. The third party must send an employee's test score to the employee and the governing body of an incorporated city or the city officer, as applicable, at the same time.

(c) The governing body or city officer, as applicable, shall not produce a list of the employees who took the test, ranked in order of their test scores, until after the third party which conducted the test has sent each employee his or her test score pursuant to paragraph (b).

(d) An employee who is aggrieved by his or her test score may appeal the testing process.

2. During the appeal process authorized by paragraph (d) of subsection 1:

(a) The employee who appeals the testing process is entitled to see:

(1) How his or her test was graded; and

(2) The questions which the employee answered incorrectly.

(b) The governing body of an incorporated city or the city officer, as applicable, shall ensure that the employee was ranked properly based on the employee's test score.



3. *A person who tampers with the score of a test taken by an employee is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

4. *The provisions of this section do not apply to:*

(a) *A city department that has less than 200 employees; or*

(b) *An incorporated city if the city has a civil service commission that appoints a chief examiner and the chief examiner:*

(1) *Serves at the pleasure of the civil service commission;*

(2) *Is not answerable to any city officer or the governing body of the incorporated city other than the civil service commission; and*

(3) *Is not a director of human resources for the civil service commission or the city.*

5. *As used in this section, "test" and "testing" includes, without limitation, a written test or oral board.*

Sec. 8.5. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the protections in this chapter for hair texture and protective hairstyles, an employer may enforce health and safety requirements set forth in federal or state law.

Sec. 9. NRS 281.370 is hereby amended to read as follows:

281.370 1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.

2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of the person's race, creed, color, national origin, sex, sexual orientation, gender identity or expression, age, political affiliation or disability, except when based upon a bona fide occupational qualification.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.



(c) *“Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

(d) *“Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

(e) “Sexual orientation” means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 9.5. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the protections in this chapter for hair texture and protective hairstyles, an employer may enforce health and safety requirements set forth in federal or state law.

Sec. 10. NRS 284.015 is hereby amended to read as follows:

284.015 As used in this chapter, unless the context otherwise requires:

1. “Administrator” means the Administrator of the Division.
2. “Commission” means the Personnel Commission.
3. “Disability,” includes, but is not limited to, physical disability, intellectual disability and mental or emotional disorder.
4. “Division” means the Division of Human Resource Management of the Department of Administration.
5. “Essential functions” has the meaning ascribed to it in 29 C.F.R. § 1630.2.

6. *“Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

7. “Public service” means positions providing service for any office, department, board, commission, bureau, agency or institution in the Executive Department of the State Government operating by authority of the Constitution or law, and supported in whole or in part by any public money, whether the money is received from the Government of the United States or any branch or agency thereof, or from private or any other sources.

~~[7]~~ 8. *“Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

9. “Veteran” means a person who:

(a) Was regularly enlisted, drafted, inducted or commissioned in the:

(1) Armed Forces of the United States and was accepted for and assigned to active duty in the Armed Forces of the United States;



(2) National Guard or a reserve component of the Armed Forces of the United States and was accepted for and assigned to duty for a minimum of 6 continuous years; or

(3) Commissioned Corps of the United States Public Health Service or the Commissioned Corps of the National Oceanic and Atmospheric Administration of the United States and served in the capacity of a commissioned officer while on active duty in defense of the United States; and

(b) Was separated from such service under conditions other than dishonorable.

~~§~~ 10. “Veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13843 and includes a veteran who is deemed to be a veteran with a service-connected disability pursuant to NRS 417.0187.

Sec. 10.5. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the protections in this chapter for hair texture and protective hairstyles, an employer may enforce health and safety requirements set forth in federal or state law.

Sec. 11. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as otherwise provided in subsection ~~§~~ 6 and NRS 354.6241, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation.

(b) Sick leave.

(c) Vacation leave.

(d) Holidays.

(e) Other paid or nonpaid leaves of absence.

(f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days’ work required of an employee in a work year.

(i) Except as otherwise provided in subsections ~~§~~ 8 and ~~§~~ 11, discharge and disciplinary procedures.

(j) Recognition clause.



(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) Except as otherwise provided in subsections ~~{8}~~ 9 and ~~{10}~~ 11, the policies for the transfer and reassignment of teachers.

(v) Procedures for reduction in workforce consistent with the provisions of this chapter.

(w) Procedures consistent with the provisions of subsection ~~{5}~~ 6 for the reopening of collective bargaining agreements for additional, further, new or supplementary negotiations during periods of fiscal emergency.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.



4. *The provisions of sections 7, 8 and 23 of this act are not subject to negotiations with an employee organization. Any provision of a collective bargaining agreement negotiated pursuant to this chapter which differs from or conflicts in any way with the provisions of section 7, 8 or 23 of this act is unenforceable and void.*

5. If the local government employer is a school district, any money appropriated by the State to carry out increases in salaries or benefits for the employees of the school district is subject to negotiations with an employee organization.

~~{5.}~~ 6. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to:

(a) Reopen a collective bargaining agreement for additional, further, new or supplementary negotiations relating to compensation or monetary benefits during a period of fiscal emergency. Negotiations must begin not later than 21 days after the local government employer notifies the employee organization that a fiscal emergency exists. For the purposes of this section, a fiscal emergency shall be deemed to exist:

(1) If the amount of revenue received by the general fund of the local government employer during the last preceding fiscal year from all sources, except any nonrecurring source, declined by 5 percent or more from the amount of revenue received by the general fund from all sources, except any nonrecurring source, during the next preceding fiscal year, as reflected in the reports of the annual audits conducted for those fiscal years for the local government employer pursuant to NRS 354.624; or

(2) If the local government employer has budgeted an unreserved ending fund balance in its general fund for the current fiscal year in an amount equal to 4 percent or less of the actual expenditures from the general fund for the last preceding fiscal year, and the local government employer has provided a written explanation of the budgeted ending fund balance to the Department of Taxation that includes the reason for the ending fund balance and the manner in which the local government employer plans to increase the ending fund balance.

(b) Take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency.



↪ Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

~~{6}~~ 7. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

~~{7}~~ 8. If the sponsor of a charter school reconstitutes the governing body of a charter school pursuant to NRS 388A.330, the new governing body may terminate the employment of any teachers or other employees of the charter school, and any provision of any agreement negotiated pursuant to this chapter that provides otherwise is unenforceable and void.

~~{8}~~ 9. The board of trustees of a school district in which a school is designated as a turnaround school pursuant to NRS 388G.400 or the principal of such a school, as applicable, may take any action authorized pursuant to NRS 388G.400, including, without limitation:

- (a) Reassigning any member of the staff of such a school; or
- (b) If the staff member of another public school consents, reassigning that member of the staff of the other public school to such a school.

~~{9}~~ 10. Any provision of an agreement negotiated pursuant to this chapter which differs from or conflicts in any way with the provisions of subsection ~~{8}~~ 9 or imposes consequences on the board of trustees of a school district or the principal of a school for taking any action authorized pursuant to subsection ~~{8}~~ 9 is unenforceable and void.

~~{10}~~ 11. The board of trustees of a school district or the governing body of a charter school or university school for profoundly gifted pupils may use a substantiated report of the abuse or neglect of a child or a violation of NRS 201.540, 201.560, 392.4633 or 394.366 obtained from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 or an equivalent registry maintained by a governmental agency in another jurisdiction for the purposes authorized by NRS 388A.515, 388C.200, 391.033, 391.104 or 391.281, as applicable. Such purposes may include, without limitation, making a determination concerning the assignment, discipline or termination of an employee. Any provision of any agreement negotiated pursuant to this chapter which conflicts with the provisions of this subsection is unenforceable and void.



~~{11-}~~ 12. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

~~{12-}~~ 13. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

~~{13-}~~ 14. As used in this section, "abuse or neglect of a child" has the meaning ascribed to it in NRS 392.281.

Sec. 12. NRS 288.270 is hereby amended to read as follows:

288.270 1. It is a prohibited practice for a local government employer or its designated representative willfully to:

(a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Dominate, interfere or assist in the formation or administration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because the employee has formed, joined or chosen to be represented by any employee organization.

(e) Refuse to bargain collectively in good faith with the exclusive representative as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(f) Discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(g) Fail to provide the information required by NRS 288.180.

(h) Fail to comply with the requirements of NRS 281.755.

2. It is a prohibited practice for a local government employee or for an employee organization or its designated agent willfully to:

(a) Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Refuse to bargain collectively in good faith with the local government employer, if it is an exclusive representative, as required in NRS 288.150. Bargaining collectively includes the entire



bargaining process, including mediation and fact-finding, provided for in this chapter.

(c) Discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(d) Fail to provide the information required by NRS 288.180.

3. As used in this section:

(a) *“Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

(b) *“Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

Sec. 13. NRS 288.500 is hereby amended to read as follows:

288.500 1. For the purposes of collective bargaining, supplemental bargaining and other mutual aid or protection, employees have the right to:

(a) Organize, form, join and assist labor organizations, engage in collective bargaining and supplemental bargaining through exclusive representatives and engage in other concerted activities; and

(b) Refrain from engaging in such activity.

2. Collective bargaining and supplemental bargaining entail a mutual obligation of the Executive Department 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 of NRS 288.150, except paragraph (f) of that subsection;

(b) The negotiation of an agreement;

(c) The resolution of any question arising under an agreement; and

(d) The execution of a written contract incorporating the provisions of an agreement, if requested by either party.

3. The subject matters set forth in subsection 3 of NRS 288.150 are not within the scope of mandatory bargaining and are reserved to the Executive Department without negotiation.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to the provisions of NRS 288.400 to 288.630, inclusive, the Executive Department is entitled to take the actions set forth in paragraph (b) of subsection ~~5~~ 6 of NRS 288.150. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.



5. This section does not preclude, but the provisions of NRS 288.400 to 288.630, inclusive, do not require, the Executive Department to negotiate subject matters set forth in subsection 3 which are outside the scope of mandatory bargaining. The Executive Department shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

6. The Executive Department shall furnish to an exclusive representative data that is maintained in the ordinary course of business and which is relevant and necessary to the discussion of the subjects of mandatory bargaining described in subsection 2. This subsection shall not be construed to require the Executive Department to furnish to the exclusive representative any advice or training received by representatives of the Executive Department concerning collective bargaining.

7. To the greatest extent practicable, any decision issued by the Board before October 1, 2019, relating to the interpretation of, or the performance under, the provisions of NRS 288.150 shall be deemed to apply to any complaint arising out of the interpretation of, or performance under, the provisions of this section.

Sec. 13.5. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the protections in this chapter for hair texture and protective hairstyles, an employer may enforce health and safety requirements set forth in federal or state law.

Sec. 14. NRS 338.125 is hereby amended to read as follows:

338.125 1. It is unlawful for any contractor in connection with the performance of work under a contract with a public body, when payment of the contract price, or any part of such payment, is to be made from public money, to refuse to employ or to discharge from employment any person because of his or her race, color, creed, national origin, sex, sexual orientation, gender identity or expression, or age, or to discriminate against a person with respect to hire, tenure, advancement, compensation or other terms, conditions or privileges of employment because of his or her race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age.

2. Contracts between contractors and public bodies must contain the following contractual provisions:

In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, creed,



color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

The contractor further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

3. Any violation of such provision by a contractor constitutes a material breach of contract.

4. As used in this section:

(a) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

(b) *"Protective hairstyle" includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

(c) *"Race" includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

(d) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 15. NRS 386.845 is hereby amended to read as follows:

386.845 1. A board of trustees of a school district may:

(a) Authorize for commercial advertising the use of buses owned by the school district; and

(b) Establish the fees and other terms and conditions which are applicable to such advertising.

2. Any advertising authorized pursuant to subsection 1:

(a) Must conform with all applicable local ordinances regarding signs; and

(b) Must not:

(1) Promote hostility, disorder or violence;

(2) Attack groups on the basis of their ethnicity, race, religion, sexual orientation, or gender identity or expression;

(3) Invade the rights of others;

(4) Inhibit the functioning of the school;

(5) Override the school's identity;

(6) Promote the use of controlled substances, dangerous drugs, intoxicating liquor, tobacco or firearms;

(7) Promote any religious organization;



- (8) Contain political advertising; or
- (9) Promote entertainment deemed improper or inappropriate by the board of trustees.

3. The board of trustees of each school district that receives money pursuant to subsection 1 shall establish a special revenue fund and direct that the money it receives pursuant to subsection 1 be deposited in that fund. Money in the fund must not be commingled with money from other sources. The board of trustees shall disburse the money in the fund to the schools within its district giving preference to the schools within the district that the district has classified as serving a significant proportion of pupils who are economically disadvantaged.

4. A school that receives money pursuant to subsection 3 shall expend the money only to purchase textbooks and laboratory equipment and to pay for field trips.

5. As used in this section:

(a) *“Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

(b) *“Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

Sec. 16. NRS 386.855 is hereby amended to read as follows:

386.855 1. The board of trustees of a school district may, in consultation with the schools within the district, parents and legal guardians of pupils who are enrolled in the district, and associations and organizations representing licensed educational personnel within the district, establish a policy that requires pupils to wear school uniforms.

2. The policy must:

- (a) Describe the uniforms;
- (b) Designate which pupils must wear the uniforms;
- (c) Designate the hours or events during which the uniforms must be worn; and

(d) To the extent practicable, be consistent with the policy adopted pursuant to NRS 392.453.

3. If the board of trustees of a school district establishes a policy that requires pupils to wear school uniforms, the board shall facilitate the acquisition of school uniforms for pupils whose parents or legal guardians request financial assistance to purchase the uniforms.

4. The board of trustees of a school district may establish a dress code enforceable during school hours for the teachers and other personnel employed by the board of trustees.



5. *A dress code or a policy that requires pupils to wear school uniforms may not discriminate against a pupil based on race. Race discrimination prohibited by this subsection includes, without limitation, the enforcement of a dress code or policy that requires school uniforms whereby a pupil's hair texture, hairstyle, including, without limitation, a protective hairstyle, or other trait associated with race violates the dress code or the policy.*

6. *As used in this section:*

(a) *"Protective hairstyle" includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

(b) *"Race" includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

Sec. 17. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 and 19 of this act.

Sec. 18. *"Protective hairstyle" includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

Sec. 19. *"Race" includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

Sec. 20. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.1395, inclusive, *and sections 18 and 19 of this act*, unless the context otherwise requires, the words and terms defined in NRS 388.1215 to 388.127, inclusive, *and sections 18 and 19 of this act* have the meanings ascribed to them in those sections.

Sec. 21. NRS 388A.453 is hereby amended to read as follows:

388A.453 1. An application for enrollment in a charter school may be submitted annually to the governing body of the charter school by the parent or legal guardian of any child who resides in this State.

2. Except as otherwise provided in subsections 1 to 5, inclusive, NRS 388A.336, subsections 1 and 2 of NRS 388A.456, and any applicable federal law, including, without limitation, 42 U.S.C. §§ 11301 et seq., a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received.

3. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial



composition of pupils who attend public schools in the zone in which the charter school is located.

4. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district.

5. Except as otherwise provided in subsections 1 and 2 of NRS 388A.456, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to subsections 1 to 4, inclusive, on the basis of a lottery system.

6. Except as otherwise provided in subsection 8, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;
- (c) Religion;
- (d) Ethnicity;
- (e) Disability;
- (f) Sexual orientation; or
- (g) Gender identity or expression,

↳ of a pupil.

7. A lottery held pursuant to subsection 5 must be held not sooner than 45 days after the date on which a charter school begins accepting applications for enrollment unless the sponsor of the charter school determines there is good cause to hold it sooner.

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

- (a) With disabilities;
- (b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or
- (c) Who are at risk or, for a charter school that is eligible to be rated using the alternative performance framework pursuant to subsection 4 of NRS 385A.740, who are described in subparagraphs (1) to (6), inclusive, of paragraph (a) of subsection 3 of NRS 385A.740.



↪ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

9. As used in this section:

(a) *“Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.*

(b) *“Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.*

Sec. 22. NRS 388C.010 is hereby amended to read as follows:

388C.010 1. The Legislature declares that the primary consideration of the Legislature when enacting legislation regarding the appropriate instruction of profoundly gifted pupils in Nevada is to pursue all suitable means for the promotion of intellectual, literary and scientific improvements to the system of public instruction in a manner that will best serve the interests of all pupils, including profoundly gifted pupils.

2. The Legislature further declares that there are pupils enrolled in the public middle schools, junior high schools and high schools in this State who are so profoundly gifted that their educational needs are not being met by the schools in which they are enrolled, and by participating in an accelerated program of education, these pupils may obtain early admission to university studies. These accelerated programs should be designed to address the different and distinct learning styles and needs of these profoundly gifted pupils.

3. It is the intent of the Legislature that participation in such accelerated programs of education for profoundly gifted pupils be open to all qualified applicants, regardless of race, culture, ethnicity, economic means, sexual orientation, or gender identity or expression, and that specific criteria for admission into those programs be designed to determine the potential for success of an applicant.

4. It is further the intent of the Legislature to support and encourage the ongoing development of innovative educational programs and tools to improve the educational opportunities of profoundly gifted pupils, regardless of race, culture, ethnicity, economic means, sexual orientation, or gender identity or expression and to increase the educational opportunities of pupils who are identified as profoundly gifted, gifted and talented, having special educational needs or being at risk for underachievement.

5. As used in this section:



(a) “Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.

(b) “Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.

Sec. 23. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4, notwithstanding the provisions of any collective bargaining agreement to the contrary, if the superintendent of schools or the board of trustees of a school district includes testing as a factor in a decision regarding the vertical promotion of an employee:

(a) The testing must be conducted by a third party which is independent from the superintendent or the board of trustees, as applicable.

(b) A third party which conducts a test must send to each employee who takes the test a confidential electronic mail message which contains the employee’s test score. The third party must send an employee’s test score to the employee and the superintendent or the board of trustees at the same time.

(c) The superintendent or the board of trustees, as applicable, shall not produce a list of the employees who took the test, ranked in order of their test scores, until after the third party which conducted the test has sent each employee his or her test score pursuant to paragraph (b).

(d) An employee who is aggrieved by his or her test score may appeal the testing process.

2. During the appeal process authorized by paragraph (d) of subsection 1:

(a) The employee who appeals the testing process is entitled to see:

(1) How his or her test was graded; and

(2) The questions which the employee answered incorrectly.

(b) The superintendent or the board of trustees, as applicable, shall ensure that the employee was ranked properly based on the employee’s test score.

3. A person who tampers with the score of a test taken by an employee is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. The provisions of this section do not apply to a district or school department that has less than 200 employees.



5. As used in this section, “test” and “testing” includes, without limitation, a written test, oral board or any other form or format of test of knowledge, skills, achievement or aptitude.

Sec. 24. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A pupil enrolled in a public school may not be disciplined, including, without limitation, pursuant to subsection 5 of NRS 386.855 or NRS 392.466 or 392.467, based on the race of the pupil.

2. As used in this section:

(a) “Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.

(b) “Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.

Sec. 25. NRS 396.530 is hereby amended to read as follows:

396.530 *1.* The Board of Regents shall not discriminate in the admission of students on account of national origin, religion, age, physical disability, sex, sexual orientation, gender identity or expression, race or color.

2. As used in this section:

(a) “Protective hairstyle” includes, without limitation, hairstyles such as natural hairstyles, afros, bantu knots, curls, braids, locks and twists.

(b) “Race” includes traits associated with race, including, without limitation, hair texture and protective hairstyles.

Sec. 26. *1.* This section and sections 1 to 6, inclusive, 8.5 to 22, inclusive, 24 and 25 of this act become effective upon passage and approval.

2. Sections 7, 8 and 23 of this act become effective on October 1, 2021.



(Reprinted with amendments adopted on May 31, 2021)

THIRD REPRINT

S.B. 347

SENATE BILL NO. 347—SENATOR SCHEIBLE

MARCH 24, 2021

JOINT SPONSORS: ASSEMBLYMEN FLORES AND TORRES

Referred to Committee on Education

SUMMARY—Revises provisions governing sexual misconduct in institutions of the Nevada System of Higher Education. (BDR 34-237)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to higher education; creating the Task Force on Sexual Misconduct at Institutions of Higher Education; prescribing the membership, duties and compensation of the Task Force; authorizing the Board of Regents of the University of Nevada to appoint researchers to develop a climate survey on sexual misconduct; authorizing the Board of Regents to require the institutions within the Nevada System of Higher Education to administer the climate survey to students; authorizing the imposition of additional requirements for the grievance process at an institution within the System; authorizing the Board of Regents to require each institution within the System to adopt a policy on sexual misconduct, enter into a memorandum of understanding with certain organizations and designate an advocate; prohibiting an institution within the System from imposing certain sanctions on certain students; authorizing the Board of Regents to require an institution within the System to take certain actions regarding a report of an alleged incident of sexual misconduct; providing for certain training and programming related to sexual misconduct; authorizing a student who has experienced sexual misconduct to request a waiver from certain requirements of scholarships or academic activities; authorizing the Board of Regents to require an annual report from institutions within the System on certain information relating to sexual misconduct; authorizing the Board of Regents to adopt regulations; making certain information relating to incidents of sexual misconduct confidential; revising provisions relating to tuition charges; revising requirements relating to certain scholarships and grants; and providing other matters properly relating thereto.



* S B 3 4 7 R 3 *

Legislative Counsel's Digest:

Existing federal law prohibits discrimination based on sex in programs or activities of education that receive federal funding. (Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq.; 34 C.F.R. Part 106) Under existing federal regulations, an institution of higher education that receives federal funding must follow a grievance process that complies with Title IX to address formal complaints that allege an incident of sexual harassment that occurs in relation to an education program or activity of the institution, including, without limitation, incidents that occur on or off a campus of the institution. (34 C.F.R. §§ 106.44, 106.45) This bill generally expands the protections provided by Title IX.

Sections 2.3-11 of this bill define relevant terms. **Section 12** of this bill creates the Task Force on Sexual Misconduct at Institutions of Higher Education and prescribes the membership of the Task Force. **Section 12.5** of this bill prescribes the duties of the Task Force. **Section 13** of this bill authorizes the Board of Regents of the University of Nevada, to the extent money is available, to appoint researchers to develop a climate survey on sexual misconduct and prescribes the requirements of the climate survey. **Section 14** of this bill authorizes the Board of Regents, to the extent money is available, to require an institution within the Nevada System of Higher Education to conduct a climate survey on sexual misconduct, and **section 15** of this bill sets forth the duties of the Board of Regents regarding the climate survey.

Section 16 of this bill authorizes the Board of Regents to require an institution to meet certain requirements related to the grievance process of the institution.

Section 17 of this bill authorizes the Board of Regents to require an institution within the System to adopt a policy on sexual misconduct and sets forth certain requirements related to the adoption of the policy. **Section 18** of this bill prescribes the information that must be included in a policy on sexual misconduct, if such a policy is required to be adopted by an institution.

Section 19 of this bill authorizes the Board of Regents to require an institution to enter into a memorandum of understanding with an organization that assists persons involved in sexual misconduct, and sets forth the provisions that may be included in such a memorandum of understanding.

Section 20 of this bill authorizes the Board of Regents to require an institution within the System to designate an advocate and provide training to the advocate. **Section 21** of this bill sets forth the duties of the advocate if an advocate is designated by an institution. Under existing law, certain communications between a victim and a victim's advocate are deemed to be confidential. (NRS 49.2546) Existing law defines a victim's advocate as a person who works for certain programs within the System that provide assistance to victims of certain acts. (NRS 49.2545) **Section 28** of this bill includes the provision of services pursuant to **sections 2-27** of this bill to victims of sexual misconduct in the definition of a victim's advocate.

Section 22 of this bill authorizes the Board of Regents to prohibit an institution within the System from sanctioning a complainant, reporting party or witness for violating a policy of student conduct that occurred during or related to an alleged incident of sexual misconduct.

Section 23 of this bill authorizes the Board of Regents to require an institution within the System to provide training on the grievance process of the institution to certain employees. **Section 24** of this bill authorizes the Board of Regents to require an institution within the System to provide programming on the awareness and prevention of sexual misconduct to students and employees of the institution.

Section 24.3 of this bill authorizes the Board of Regents to require an institution within the System to determine the responsibility of a respondent for an alleged incident of sexual misconduct based on a preponderance of the evidence. **Section 24.7** of this bill sets forth the requirements for conducting an investigation.



Section 24.5 of this bill authorizes the Board of Regents to require an institution within the System to accept a request from a complainant who is at least 18 years of age to keep the identity of the complainant confidential unless state or federal law requires disclosure or further action. **Section 24.9** of this bill authorizes an institution to issue a no-contact directive in certain circumstances.

Section 24.95 of this bill authorizes a student who has experienced sexual misconduct to request a waiver from certain requirements of various scholarships or academic activities. **Sections 27.1-27.9** of this bill make conforming changes relating to such a waiver.

Section 25 of this bill authorizes the Board of Regents to require an institution within the System to submit an annual report to the Board of Regents on certain information relating to sexual misconduct. **Section 25** also requires the Board of Regents to compile the reports and submit the compilation to the Director of the Department of Health and Human Services and to the Legislature or Legislative Committee on Education.

Section 27 of this bill authorizes the Board of Regents to adopt regulations.

Section 28.5 of this bill makes certain information generated pursuant to a climate survey on sexual misconduct and the annual report on sexual misconduct prepared by an institution within the System confidential. (NRS 293.010)

Under existing law, the Board of Regents may not fix tuition charges against certain students. (NRS 396.540) **Section 27.05** of this bill prohibits the Board of Regents from fixing tuition charges against: (1) students whose parent, legal guardian or spouse was stationed at a military installation associated with Nevada on the date the student is admitted to a university, state college or community college; and (2) students who graduated from a high school in this State, regardless of whether the student or the student's family is a bona fide resident.

Existing law sets forth various requirements to obtain a scholarship or grant under the Governor Guinn Millennium Scholarship Program, the Silver State Opportunity Grant Program or the Nevada Promise Scholarship Program. (NRS 396.930, 396.952, 396.956, 396.9665) **Section 27.5** of this bill removes a requirement to certify that the applicant is a citizen of or legal immigrant to the United States to receive a Millennium Scholarship. **Sections 27.93 and 27.95** of this bill remove requirements to complete the Free Application for Federal Student Aid to receive a Silver State Opportunity Grant in certain circumstances. **Sections 27.93 and 27.97** of this bill provide that a student may be eligible for a Silver State Opportunity Grant or a Nevada Promise Scholarship if the student graduated from a high school located in this State, regardless of whether the student is a bona fide resident.

Existing law requires the Board of Regents to distribute scholarships under the Nevada Promise Scholarship Program first to students who complete the Free Application for Federal Student Aid and then, if there is money remaining for additional distributions, to students who are prohibited by federal law from completing the Free Application for Federal Student Aid. (NRS 396.968) **Section 37.99** of this bill removes this requirement.

Under existing federal law, a state may provide a qualified tuition program to help families pay for college education. (26 U.S.C. § 529) Existing state law establishes the Nevada Higher Education Prepaid Tuition Program and the Nevada College Savings Program. (NRS 353B.010-353B.190, 353B.300-353B.370) **Section 28.7** of this bill prohibits a prepaid tuition program or college savings program from excluding a person or his or her family from participating in such a program based solely on the citizenship or immigration status of the person or his or her family.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *As used in sections 2 to 27, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2.3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.3. *"Complainant" means a student or employee of an institution within the System who is alleged to be the victim of conduct that could constitute sexual misconduct.*

Sec. 2.5. *"Dating violence" has the meaning ascribed to it in 34 U.S.C. § 12291(a).*

Sec. 3. *"Domestic violence" has the meaning ascribed to it in 34 U.S.C. § 12291(a).*

Sec. 4. *"Reporting party" means a person who reports an alleged incident of sexual misconduct to the institution.*

Sec. 5. *"Respondent" means a person who has been reported to be the perpetrator of conduct that could constitute sexual misconduct.*

Sec. 6. *"Sexual assault" has the meaning ascribed to it in 20 U.S.C. § 1092(f)(6)(A)(v).*

Sec. 7. *"Sexual harassment" means conduct on the basis of sex, whether direct or indirect, implicit or explicit, verbal or nonverbal or in person or via virtual or electronic means, that satisfies one or more of the following:*

1. An employee of an institution within the System conditioning the provision of an aid, benefit or service of the institution or the terms, conditions or privileges of the participation of a person in the education programs or activities of the institution on the person's participation in unwelcome sexual conduct, including, without limitation:

(a) A sexual advance;

(b) A request for sexual favors; or

(c) Other conduct of a sexual nature.

2. Unwelcome sexual advances, requests for sexual favors and conduct of a sexual nature or evincing gender bias:

(a) That, in the educational environment, is made a term or condition of a student's academic status or, based on an objective standard, is sufficiently severe, persistent or pervasive that it interferes with, limits or effectively denies a student the ability to participate in or benefit from the services, activities or opportunities offered by an institution within the System.



(b) Where, in the workplace, submission to or rejection of the sexual advances, requests for sexual favors or conduct is used as a basis for decisions or evaluations related to academics or employment or permission to participate in a service, activity or opportunity offered by an institution within the System or that, based on an objective standard, is sufficiently severe, persistent or pervasive that it creates an intimidating, hostile or abusive work environment which may or may not interfere with an employee's job performance.

3. Sexual assault, dating violence, domestic violence or stalking.

Sec. 8. "Sexual misconduct" means dating violence, domestic violence, gender-based violence, gender-based harassment, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment, stalking or indecent exposure.

Sec. 9. "Stalking" has the meaning ascribed to it in 34 C.F.R. § 106.30.

Sec. 9.5. "Student" includes, without limitation, a former student of an institution within the System who took a leave of absence or withdrew from the institution due to being a complainant or respondent.

Sec. 10. "Supportive measures" has the meaning ascribed to it in 34 C.F.R. § 106.30.

Sec. 11. "Trauma-informed response" means a response involving an understanding of the complexities of sexual misconduct, including, without limitation:

1. Perpetrator methodology;
2. Conducting an effective investigation;
3. The neurobiological causes and impacts of trauma; and
4. The influence of social myths and stereotypes surrounding the causes and impacts of trauma.

Sec. 12. 1. There is hereby created the Task Force on Sexual Misconduct at Institutions of Higher Education consisting of 12 members as follows:

- (a) The Chancellor of the System, or his or her designee;
- (b) The Chief General Counsel of the System, or his or her designee; and
- (c) Ten members appointed by the Board of Regents as follows:

- (1) One representative of a state college;
- (2) One representative of a community college;
- (3) One representative of a university;
- (4) One Title IX coordinator from an institution within the System;



(5) One student, appointed in consultation with a student government association, who represents a group or organization that focuses on multiculturalism, diversity or advocacy at a state college or community college;

(6) One student, appointed in consultation with a student government association, who represents a group or organization that focuses on multiculturalism, diversity or advocacy at a university;

(7) One researcher with experience in the development of climate surveys on sexual misconduct;

(8) One researcher of statistics, data analytics or econometrics with experience in survey analysis in higher education;

(9) One medical professional from the University of Nevada, Las Vegas, School of Medicine or the University of Nevada, Reno, School of Medicine; and

(10) One person who serves as a victim's advocate, as defined in NRS 49.2545, at an institution within the System.

2. After the initial terms, each appointed member of the Task Force serves a term of 2 years and may be reappointed to one additional 2-year term following his or her initial term. A vacancy must be filled in the same manner as the original appointment.

3. The Task Force shall, at its first meeting and each odd-numbered year thereafter, elect a Chair from among its members.

4. The Task Force shall meet at least once annually and may meet at other times upon the call of the Chair or a majority of the members of the Task Force.

5. A majority of the members of the Task Force constitutes a quorum, and a quorum may exercise all the power and authority conferred on the Task Force.

6. Members of the Task Force serve without compensation, except that for each day or portion of a day during which a member of the Task Force attends a meeting of the Task Force or is otherwise engaged in the business of the Task Force, and within the limits of available money, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

7. Each member of the Task Force who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Task Force and perform any work necessary to carry out the duties of the Task Force in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Task Force to make up the time



1 *the member is absent from work to carry out his or her duties as a*
2 *member, and shall not require the member to take annual*
3 *vacation or compensatory time for the absence.*

4 **Sec. 12.5.** 1. *The Task Force on Sexual Misconduct at*
5 *Institutions of Higher Education created by section 12 of this act*
6 *shall:*

7 (a) *Review the results of any climate survey on sexual*
8 *misconduct administered at an institution within the System; and*

9 (b) *Each year, hold a meeting open to the public to provide*
10 *recommendations to the Board of Regents on how to address*
11 *sexual misconduct at institutions within the System.*

12 2. *A meeting held pursuant to subsection 1 is not subject to*
13 *the provisions of chapter 241 of NRS.*

14 **Sec. 13.** 1. *To the extent that money is available, the Board*
15 *of Regents may appoint researchers employed at one or more*
16 *institutions within the System to develop a climate survey on*
17 *sexual misconduct designed to be administered at institutions*
18 *within the System. The climate survey on sexual misconduct must:*

19 (a) *Gather institution-specific data regarding the prevalence of*
20 *gender-based harassment and discrimination;*

21 (b) *Be fair and unbiased;*

22 (c) *Be scientifically valid and reliable; and*

23 (d) *Meet the highest standards of survey research.*

24 2. *If appointed to develop a climate survey on sexual*
25 *misconduct, the researchers shall:*

26 (a) *Use best practices from peer-reviewed research;*

27 (b) *Consult with persons with expertise in the development and*
28 *use of climate surveys on sexual misconduct at institutions of*
29 *higher education;*

30 (c) *Consult with a student government association;*

31 (d) *Review climate surveys on sexual misconduct which have*
32 *been developed and implemented by institutions of higher*
33 *education, including, without limitation, institutions in other*
34 *states;*

35 (e) *Provide opportunity for written comment from*
36 *organizations that assist victims of sexual misconduct to ensure*
37 *the adequacy and appropriateness of any proposed content of the*
38 *climate survey on sexual misconduct;*

39 (f) *Consult with institutions within the System on strategies for*
40 *optimizing the effectiveness of the climate survey on sexual*
41 *misconduct; and*

42 (g) *Account for the diverse needs and differences of the*
43 *institutions within the System.*



3. If a climate survey on sexual misconduct is developed, the climate survey must request information on topics related to sexual misconduct. The topics may include, without limitation:

(a) The estimated number of alleged incidents of sexual misconduct, both reported and not reported, at an institution within the System, if a student taking the survey has knowledge of such information;

(b) When and where an alleged incident of sexual misconduct occurred;

(c) Whether an alleged incident of sexual misconduct was perpetrated by a student, faculty member, staff member of an institution within the System, third party vendor or another person;

(d) Awareness of a student of the policies and procedures related to sexual misconduct at an institution;

(e) Whether a student reported an alleged incident of sexual misconduct and:

(1) If the incident was reported, to which campus resource or law enforcement agency a report was made; and

(2) If the incident was not reported, the reason the student chose not to report the incident;

(f) Whether a student who reported an alleged incident of sexual misconduct was:

(1) Offered supportive measures by an institution;

(2) Informed of, aware of or referred to campus, local or state resources for support for victims, including, without limitation, appropriate medical care and legal services; and

(3) Informed of the prohibition against retaliation for reporting an alleged incident of sexual misconduct;

(g) Contextual factors in an alleged incident of sexual misconduct, such as the involvement of force, incapacitation or coercion;

(h) Demographic information that could be used to identify at-risk groups, including, without limitation, the gender, race, ethnicity, national origin, economic status, disability, gender identity or expression, immigration status and sexual orientation of the student taking the climate survey on sexual misconduct;

(i) Perceptions a student has of campus safety;

(j) Whether a student has confidence in the ability of the institution to protect against and respond to alleged incidents of sexual misconduct;

(k) Whether a student chose to withdraw or take a leave of absence from the institution or transfer to another institution because the student is the complainant or respondent in an alleged incident of sexual misconduct;



(l) Whether a student withdrew from any classes or was placed on academic probation, disciplinary probation or otherwise disciplined as a result of an alleged incident of sexual misconduct;

(m) Whether a student experienced any financial impact as a result of an alleged incident of sexual misconduct;

(n) Whether a student experienced any negative health impacts as a result of an alleged incident of sexual misconduct, including, without limitation, post-traumatic stress disorder, anxiety, depression, chronic pain or an eating disorder;

(o) The perception of the participants in the survey of the attitudes of the community toward sexual misconduct, including, without limitation, the willingness of a person to intervene in an ongoing incident of sexual misconduct as a bystander; and

(p) Any other questions as determined necessary by the researchers.

4. The climate survey on sexual misconduct must provide an option for students to decline to answer a question.

5. The climate survey on sexual misconduct must be provided to the Task Force on Sexual Misconduct at Institutions of Higher Education created pursuant to section 12 of this act for comment.

Sec. 14. 1. To the extent that money is available, the Board of Regents may require each institution within the System to conduct a climate survey on sexual misconduct at the institution biennially.

2. A climate survey on sexual misconduct conducted pursuant to subsection 1 must include the questions developed by researchers employed at an institution within the System pursuant to section 13 of this act. If an institution within the System includes additional questions on a climate survey on sexual misconduct pursuant to subsection 1, the questions must not be unnecessarily traumatizing for a victim of an alleged incident of sexual misconduct.

3. If an institution within the System conducts a climate survey on sexual misconduct pursuant to subsection 1, the institution shall:

(a) Provide the survey to each student at the institution, including, without limitation, students studying abroad;

(b) Not require the disclosure of personally identifiable information by a participant in the climate survey on sexual misconduct;

(c) Work to ensure an adequate number of students complete the survey to achieve a random and representative sample size of students;

(d) Within 120 days after completion of the climate survey on sexual misconduct:



(1) Compile a summary of the responses to the survey; and
(2) Submit the summary of responses to the Board of Regents; and

(e) Post on the Internet website maintained by the institution in a manner that does not disclose personally identifiable information of any person, the summary of the responses to the climate survey on sexual misconduct.

4. A climate survey on sexual misconduct must be administered electronically by an institution within the System and provide reasonable accommodations for students with a disability.

5. An institution within the System may obtain a waiver from the Board of Regents to not administer a climate survey on sexual misconduct pursuant to this section due to the financial circumstances of the institution.

6. An institution within the System may apply for and accept any gifts, grants, donations, bequests or other money from any source to carry out the provisions of this section.

7. Any data or reports that underlie the summaries generated pursuant to subsection 2 are confidential and are not a public record for the purposes of chapter 239 of NRS.

Sec. 15. 1. If the Board of Regents requires an institution within the System to conduct a climate survey on sexual misconduct pursuant to section 14 of this act, the Board of Regents shall to the extent that money is available:

(a) Provide a copy of the questions developed by the researchers employed at an institution within the System pursuant to section 13 of this act to each institution within a reasonable time after the Board of Regents receives the questions from the researchers;

(b) Establish a repository for the summaries of the climate survey on sexual misconduct submitted by each institution pursuant to section 14 of this act;

(c) Post each summary of the responses to a climate survey on sexual misconduct submitted by an institution pursuant to section 14 of this act on the Internet website maintained by the Board of Regents in a manner that does not disclose personally identifiable information of any person;

(d) Adopt a policy on the dissemination, collection and summation of the responses to the climate survey on sexual misconduct; and

(e) On or before February 1 of each odd-numbered year, report the summaries of the climate survey on sexual misconduct submitted by an institution pursuant to section 14 of this act to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Standing Committees on Education.



* S B 3 4 7 R 3 *

2. Any data or reports that underlie the summaries generated pursuant to subsection 1 are confidential and are not a public record for the purposes of chapter 239 of NRS.

Sec. 16. The Board of Regents may require an institution within the System to:

1. Require employees who participate in the grievance process of the institution pursuant to Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq., or a policy on sexual misconduct adopted pursuant to section 17 of this act to receive annual training on topics related to sexual misconduct which may include, without limitation, any training required pursuant to section 23 of this act;

2. Provide a complainant and respondent with a copy of the policies of the institution regarding the submission and consideration of evidence that may be considered during the grievance process;

3. Except as otherwise required by federal law, within 14 business days after the conclusion of the grievance process, inform the complainant and the respondent of the result of the grievance process; and

4. Unless otherwise required by state or federal law, not publicly disclose the identity of a complainant or respondent.

Sec. 17. 1. The Board of Regents may require an institution within the System to adopt a policy on sexual misconduct consistent with applicable state and federal law.

2. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to subsection 1, in developing the policy on sexual misconduct, an institution within the System:

(a) Shall:

(1) Incorporate a trauma-informed response;

(2) Coordinate with:

(I) The Title IX coordinator of the institution; and

(II) If an institution has entered into a memorandum of understanding pursuant to section 19 of this act, the organization that assists persons involved in sexual misconduct; and

(3) Engage in a culturally competent manner to reflect the diverse needs of all students; and

(b) May consider input from internal and external entities, including, without limitation:

(1) Administrators at the institution;

(2) Personnel affiliated with health care centers located on or off a campus of the institution that provide services to the institution;

(3) An advocate designated pursuant to section 20 of this act;



- (4) Staff affiliated with campus housing services;
- (5) Students enrolled in an institution within the System;
- (6) A provider of health care;
- (7) Law enforcement agencies, including, without limitation, campus police or security; and
- (8) The district attorney of the county where the main campus of the institution is located.

3. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to subsection 1, an institution within the System shall provide:

(a) Internal or external entities an opportunity to provide comment on the initial policy on sexual misconduct or any substantive change to the policy;

(b) Instructions on how an internal or external entity may provide comment on the initial policy on sexual misconduct or a substantive change to the policy; and

(c) A reasonable length of time during which the institution will accept comment.

4. After an initial policy on sexual misconduct is adopted by an institution within the System, the opportunity for comment by an internal or external entity pursuant to subsection 3 applies only to a substantive change to the policy, as determined by the institution.

5. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to subsection 1, an institution within the System shall make the policy on sexual misconduct publicly available not later than the start of each academic year:

(a) Upon request, to a prospective student, current student or employee of the institution; and

(b) On the Internet website maintained by the institution.

Sec. 18. A policy on sexual misconduct adopted pursuant to section 17 of this act must include, without limitation, information on:

1. The procedures by which a student or employee at an institution within the System may report or disclose an alleged incident of sexual misconduct that occurred on or off a campus of the institution;

2. Supportive measures, including, without limitation:

(a) Changing academic, living, campus transportation or work arrangements;

(b) Taking a leave of absence from the institution in response to an alleged incident of sexual misconduct;

(c) How to request supportive measures; and

(d) The process to have any supportive measures reviewed by the institution;



3. Appropriate local, state and federal law enforcement agencies, including, without limitation, the contact information for a law enforcement agency; and

4. The grievance process of the institution for investigating and resolving a report of an alleged incident of sexual misconduct pursuant to Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq.

Sec. 18.3. (Deleted by amendment.)

Sec. 18.5. (Deleted by amendment.)

Sec. 19. 1. The Board of Regents may require an institution within the System to enter into a memorandum of understanding with an organization that assists persons involved in sexual misconduct. The memorandum of understanding may, without limitation:

(a) Allow for cooperation and training between the institution and the organization that assists persons involved in sexual misconduct to establish an understanding of the:

(1) Responsibilities that the institution and organization that assists persons involved in sexual misconduct have in responding to a report or disclosure of an alleged incident of sexual misconduct; and

(2) Procedures of the institution for providing support and services to students and employees;

(b) Require an organization that assists persons involved in sexual misconduct to:

(1) Assist with developing policies, programming or training at the institution regarding sexual misconduct;

(2) Provide an alternative for a student or employee of the institution to receive free and confidential counseling, advocacy or crisis services related to an alleged incident of sexual misconduct that are located on or off a campus of the institution, including, without limitation:

(I) Access to a health care provider who specializes in forensic medical examinations; and

(II) Confidential services;

(3) Assist with the development and implementation of education and prevention programs for students of the institution; and

(4) Assist with the development and implementation of training and prevention curriculum for employees of the institution; and

(c) Include a fee structure for any services provided by the organization that assists persons involved in sexual misconduct.

2. As used in this section, "forensic medical examination" has the meaning ascribed to it in NRS 217.300.



1 **Sec. 20. 1.** *The Board of Regents may require an*
2 *institution within the System to designate an advocate. If the*
3 *Board of Regents requires the designation of an advocate, an*
4 *institution shall designate existing categories of employees who*
5 *may serve as an advocate. An institution may:*

6 *(a) Partner with an organization that assists persons involved*
7 *in sexual misconduct to designate an advocate; or*

8 *(b) If the institution enrolls less than 1,000 students who reside*
9 *in campus housing, partner with another institution within the*
10 *System to designate an advocate.*

11 **2.** *An advocate designated pursuant to subsection 1:*

12 *(a) Must not be a Title IX coordinator, a member of campus*
13 *police or law enforcement or any other official of the institution*
14 *who is authorized to initiate a disciplinary proceeding on behalf of*
15 *the institution or whose position at the institution may create a*
16 *conflict of interest;*

17 *(b) Must be designated based on the training or experience of*
18 *the person to effectively provide services related to sexual*
19 *misconduct; and*

20 *(c) Must have completed at least 20 hours of relevant training.*

21 **3.** *If an institution within the System designates an advocate*
22 *pursuant to subsection 1, the advocate must be trained on:*

23 *(a) The awareness and prevention of sexual misconduct;*

24 *(b) Title IX of the Education Amendments Act of 1972,*
25 *20 U.S.C. §§ 1681 et seq.;*

26 *(c) Any policy on sexual misconduct adopted by the institution*
27 *pursuant to section 17 of this act; and*

28 *(d) Trauma-informed responses to a report of an alleged*
29 *incident of sexual misconduct.*

30 **4.** *An institution within the System that designates an*
31 *advocate pursuant to subsection 1 shall provide for the availability*
32 *of an advocate to students within a reasonable distance from the*
33 *institution or by electronic means if it is not practicable to provide*
34 *for the availability of an advocate in person.*

35 **Sec. 21. 1.** *If an advocate is designated pursuant to section*
36 *20 of this act, the advocate shall:*

37 *(a) Inform a student or employee of, or provide resources*
38 *about how to obtain information on:*

39 *(1) Options on how to report an alleged incident of sexual*
40 *misconduct and the effects of each option;*

41 *(2) Counseling services available on a campus of the*
42 *institution and through local community resources;*

43 *(3) Medical and legal services available on or off a campus*
44 *of the institution;*

45 *(4) Available supportive measures;*



- 1 (5) *Counseling related to student loans;*
2 (6) *The grievance process of the institution and that the*
3 *grievance process is not a substitute for the system of criminal*
4 *justice;*
5 (7) *The role of local, state and federal law enforcement*
6 *agencies;*
7 (8) *Any limits on the ability of the advocate to provide*
8 *privacy or confidentiality to the student or employee; and*
9 (9) *A policy on sexual misconduct adopted by the institution*
10 *pursuant to section 17 of this act;*
11 (b) *Notify the student or employee of his or her rights and the*
12 *responsibilities of the institution regarding an order for protection,*
13 *restraining order or injunction issued by a court;*
14 (c) *Unless otherwise required by state or federal law, not be*
15 *required to report an alleged incident of sexual misconduct to the*
16 *institution or a law enforcement agency;*
17 (d) *Provide confidential services to students and employees;*
18 (e) *Not provide confidential services to more than one party in*
19 *a grievance process;*
20 (f) *Unless otherwise required by state or federal law, not*
21 *disclose confidential information without the prior written consent*
22 *of the student or employee who shared the information;*
23 (g) *Support a complainant or respondent in obtaining*
24 *supportive measures to ensure the complainant or respondent has*
25 *continued access to education; and*
26 (h) *Inform a student or employee that supportive measures*
27 *may be available through disability services or the Title IX*
28 *coordinator.*
29 2. *If an advocate is designated pursuant to section 20 of this*
30 *act, the advocate may:*
31 (a) *If appropriate and if directed by a student or employee,*
32 *assist the student or employee in reporting an alleged incident of*
33 *sexual misconduct to the institution or a law enforcement agency;*
34 *and*
35 (b) *Attend a disciplinary proceeding of the institution as the*
36 *advisor or support person of a complainant.*
37 3. *Notice to an advocate of an alleged incident of sexual*
38 *misconduct or the performance of services by an advocate*
39 *pursuant to this section shall not constitute actual or constructive*
40 *notice of an alleged incident of sexual misconduct to the*
41 *institution within the System which designated the advocate*
42 *pursuant to section 20 of this act.*
43 4. *If a conflict of interest arises between the institution within*
44 *the System which designated an advocate and the advocate in*
45 *advocating for the provision of supportive measures by the*



1 *institution to a complainant or a respondent, the institution shall*
2 *not discipline, penalize or otherwise retaliate against the advocate*
3 *for advocating for the complainant or the respondent.*

4 **Sec. 22.** 1. *The Board of Regents may prohibit an*
5 *institution within the System from subjecting a complainant,*
6 *reporting party or witness who reports an alleged incident of*
7 *sexual misconduct to a disciplinary proceeding or sanction for a*
8 *violation of a policy on student conduct related to drug or alcohol*
9 *use, trespassing or unauthorized entry of school facilities or other*
10 *violation of a policy of an institution that occurred during or*
11 *related to an alleged incident of sexual misconduct unless the*
12 *institution determines that the:*

13 (a) *Report of an alleged incident of sexual misconduct was not*
14 *made in good faith; or*

15 (b) *The violation of a policy on student conduct was egregious,*
16 *including, without limitation, a violation that poses a risk to the*
17 *health or safety of another person.*

18 2. *The Board of Regents may require an institution within the*
19 *System to review any disciplinary action taken against a reporting*
20 *party or witness to determine if there is any connection between*
21 *the alleged incident of sexual misconduct that was reported and*
22 *the misconduct that led to the reporting party or witness being*
23 *disciplined.*

24 **Sec. 23.** 1. *The Board of Regents may require an*
25 *institution within the System to provide training on the grievance*
26 *process of the institution in accordance with 34 C.F.R. § 106.45.*

27 2. *The Board of Regents may require an institution within the*
28 *System to train the Title IX coordinator and members of*
29 *the campus police or safety personnel of the institution in the*
30 *awareness of sexual misconduct and in trauma-informed response*
31 *to an alleged incident of sexual misconduct.*

32 **Sec. 24.** 1. *The Board of Regents may require an*
33 *institution within the System to provide programming on*
34 *awareness and prevention of sexual misconduct to all students and*
35 *employees of the institution. If the Board of Regents requires an*
36 *institution to provide programming on awareness and prevention*
37 *of sexual misconduct, the programming must include, without*
38 *limitation:*

39 (a) *An explanation of consent as it applies to a sexual act or*
40 *sexual conduct with another person;*

41 (b) *The manner in which drugs and alcohol may affect the*
42 *ability of a person to consent to a sexual act or sexual conduct*
43 *with another person;*

44 (c) *Information on options for reporting an alleged incident of*
45 *sexual misconduct, the effects of each option and the method to*



* S B 3 4 7 R 3 *

1 file a report under each option, including, without limitation, a
2 description of the confidentiality and anonymity, as applicable, of
3 a report;

4 (d) Information on the grievance process of the institution for
5 addressing a report of an alleged incident of sexual misconduct,
6 including, without limitation, a policy on sexual misconduct
7 adopted pursuant to section 17 of this act;

8 (e) The range of sanctions or penalties the institution may
9 impose on a student or employee found responsible for an incident
10 of sexual misconduct;

11 (f) If an advocate is designated pursuant to section 20 of this
12 act, the name, contact information and role of the advocate;

13 (g) Strategies for intervention by bystanders;

14 (h) Strategies for reduction of the risk of sexual misconduct;
15 and

16 (i) Any other opportunities for additional programming on
17 awareness and prevention of sexual misconduct.

18 2. If an institution provides programming on awareness and
19 prevention of sexual misconduct pursuant to subsection 1, the
20 institution:

21 (a) Shall coordinate with the Title IX coordinator of the
22 institution;

23 (b) May coordinate with a law enforcement agency and, if the
24 institution entered into a memorandum of understanding with an
25 organization that assists persons involved in sexual misconduct
26 pursuant to section 19 of this act, that organization; and

27 (c) Shall require students or employees to attend the
28 programming on the awareness and prevention of sexual
29 misconduct.

30 3. If an institution provides programming on awareness and
31 prevention of sexual misconduct pursuant to subsection 1, the
32 programming may be culturally responsive and address the unique
33 experiences and challenges faced by students based on the race,
34 ethnicity, national origin, economic status, disability, gender
35 identity or expression, immigration status and sexual orientation
36 of a student.

37 **Sec. 24.3.** The Board of Regents may require an institution
38 within the System that receives a report of an alleged incident of
39 sexual misconduct that involves a student or employee of the
40 institution to determine the responsibility of a respondent, if any,
41 based on a preponderance of the evidence.

42 **Sec. 24.5.** 1. The Board of Regents may require an
43 institution within the System to accept a request from a
44 complainant who is 18 years of age or older to keep the identity of
45 the complainant confidential or take no investigative or



* S B 3 4 7 R 3 *

disciplinary action against a respondent. An institution shall not grant such a request if state or federal law requires disclosure or further action. In determining whether to grant such a request, the institution shall consider whether there is a risk that the respondent may commit additional acts of sexual misconduct, violence, discrimination or harassment based on whether one or more of the following factors are present to a sufficient degree such that the request cannot be honored:

(a) There are any previous or existing reports of an incident of sexual misconduct against the respondent, including, without limitation, records of complaints or the arrest of the respondent;

(b) The respondent allegedly used a weapon;

(c) The respondent threatened violence, discrimination or harassment against the complainant or other persons;

(d) The alleged incident of sexual misconduct was alleged to have been committed by two or more people;

(e) The circumstances surrounding the alleged incident of sexual misconduct indicate that the incident was premeditated and, if so, whether the respondent or another person allegedly premeditated the incident;

(f) The circumstances surrounding the alleged incident of sexual misconduct indicate a pattern of consistent behavior at a particular location or by a particular group of people;

(g) The institution is able to conduct a thorough investigation and obtain relevant evidence without the cooperation of the complainant; and

(h) There are any other factors that indicate the respondent may repeat the behavior alleged by the complainant or that the complainant or other persons may be at risk of harm.

2. If an institution within the System grants a request for confidentiality or to not take any investigative or disciplinary action pursuant to subsection 1, the institution shall take reasonable steps to, without initiating formal action against the respondent:

(a) Respond to the report of the alleged incident of sexual misconduct while maintaining the confidentiality of the complainant;

(b) Limit the effects of the alleged incident of sexual misconduct; and

(c) Prevent the recurrence of any misconduct.

3. Reasonable steps taken pursuant to subsection 2 may include, without limitation:

(a) Increased monitoring, supervision or security at locations or activities where the alleged incident of sexual misconduct occurred;



(b) Providing additional training and educational materials for students and employees; or

(c) Ensuring a complainant is informed of and has access to appropriate supportive measures.

4. If an institution within the System grants a request for confidentiality or to not take any investigative or disciplinary action pursuant to subsection 1, the institution shall inform the complainant that the ability of the institution to respond to the report of the alleged incident of sexual misconduct will be limited by the request.

5. If an institution within the System determines that it cannot grant a request for confidentiality or to not take any investigative or disciplinary action pursuant to subsection 1, the institution shall:

(a) Inform the complainant of the determination before disclosing the identity of the complainant or initiating an investigation;

(b) Make available supportive measures for the complainant; and

(c) If requested by the complainant, inform the respondent that the complainant asked the institution not to take investigative or disciplinary action against the respondent.

Sec. 24.7. 1. In conducting an investigation of an alleged incident of sexual misconduct an institution within the System shall:

(a) Provide the complainant and the respondent the opportunity to identify witnesses and other evidence to assist the institution in determining whether an alleged incident of sexual misconduct has occurred;

(b) Inform the complainant and the respondent that any evidence available to the party but not disclosed during the investigation might not be considered at a subsequent hearing; and

(c) Ensure that questions and evidence of the sexual history or sexual predisposition of a complainant are not considered relevant unless the:

(1) Questions or evidence are directly relevant to prove that the conduct alleged to have been committed by the respondent was inflicted by another person; or

(2) Questions and evidence are relevant to demonstrate how the parties communicated consent in previous or subsequent consensual sexual conduct.

2. An institution within the System shall provide periodic updates on the investigation to the complainant and the respondent regarding the timeline of the investigation.



3. An institution within the System shall notify the complainant and the respondent of the findings of an investigation simultaneously.

4. If an institution within the System imposes any disciplinary action based on the findings of an investigation on a respondent, such disciplinary action must be imposed in accordance with the grievance process of the institution.

Sec. 24.8. (Deleted by amendment.)

Sec. 24.9. 1. An institution within the System may issue a no-contact directive prohibiting the complainant and the respondent from contacting each other. An institution may issue a no-contact directive if the directive is necessary to, without limitation:

(a) Protect the safety or well-being of either the complainant or the respondent; or

(b) Respond to interference with an investigation.

2. A no-contact directive issued against the respondent after a decision of responsibility, if any, has been made must be mutually applied to the complainant and the respondent.

3. If an institution issues a mutual no-contact directive, the institution shall provide the complainant and the respondent with an explanation of the terms of the directive, including, without limitation, that a violation of the directive may subject the party to disciplinary action.

Sec. 24.95. 1. A student who experiences sexual misconduct may request a waiver from any requirement to maintain a certain grade point average, credit enrollment, or other academic or disciplinary record requirement relating to academic success for any scholarship, grant or other academic program offered by an institution within the System. A waiver may be granted by a provost, dean, academic advisor or other appropriate staff or faculty member of the institution.

2. A student or employee who experiences sexual misconduct may be granted a request to take a leave of absence or, to the extent practicable, extend benefits of employment.

Sec. 25. 1. The Board of Regents may require an institution within the System to prepare and submit to the Board of Regents an annual report that includes, without limitation:

(a) The total number of reports of alleged incidents of sexual misconduct allegedly committed by a student or employee of the institution made to the Title IX office of the institution;

(b) The number of students and employees found responsible for an incident of sexual misconduct by the institution;



(c) The number of students and employees accused of but found not responsible for an incident of sexual misconduct by the institution;

(d) The number of persons sanctioned by the institution as a result of a finding of responsibility for an incident of sexual misconduct; and

(e) The number of persons who submitted requests for supportive measures and the number of persons who received supportive measures.

2. A report submitted pursuant to subsection 1 must not contain any personally identifiable information of a student or employee of an institution within the System.

3. Information contained in a report submitted pursuant to subsection 1 must be able to be disaggregated by students and employees.

4. If the Board of Regents requires a report to be prepared and submitted pursuant to subsection 1, an institution shall submit the report to the Board of Regents not later than October 1 of each year.

5. If the Board of Regents requires a report to be prepared and submitted pursuant to subsection 1, the Board of Regents shall, not later than December 31 of each year, submit a compilation of the reports the Board of Regents received pursuant to subsection 1 to the Director of the Department of Health and Human Services and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature in even-numbered years or the Legislative Committee on Education in odd-numbered years.

6. Any data or reports that underlie the report prepared pursuant to subsection 4 are confidential and are not a public record for the purposes of chapter 239 of NRS.

Sec. 26. (Deleted by amendment.)

Sec. 27. The Board of Regents may adopt regulations as necessary to carry out the provisions of sections 2 to 27, inclusive, of this act.

Sec. 27.05. NRS 396.540 is hereby amended to read as follows:

396.540 1. For the purposes of this section:

(a) "Bona fide resident" shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with any statute. The qualification "bona fide" is intended to ensure that the residence is genuine and established for purposes other than the avoidance of tuition.



(b) "Matriculation" has the meaning ascribed to it in regulations adopted by the Board of Regents.

(c) "Tuition charge" means a charge assessed against students who are not residents of Nevada and which is in addition to registration fees or other fees assessed against students who are residents of Nevada.

2. The Board of Regents may fix a tuition charge for students at all campuses of the System, but tuition charges must not be assessed against:

(a) All students whose families have been bona fide residents of the State of Nevada for at least 12 months before the matriculation of the student at a university, state college or community college within the System;

(b) All students whose families reside outside of the State of Nevada, providing such students have themselves been bona fide residents of the State of Nevada for at least 12 months before their matriculation at a university, state college or community college within the System;

(c) All students whose parent, legal guardian or spouse is a member of the Armed Forces of the United States who:

(1) Is on active duty and stationed at a military installation in the State of Nevada or a military installation in another state which has a specific nexus to this State, including, without limitation, the Marine Corps Mountain Warfare Training Center located at Pickel Meadow, California; or

(2) Was on active duty and stationed at a military installation in the State of Nevada or a military installation in another state which has a specific nexus to this State, including, without limitation, the Marine Corps Mountain Warfare Training Center located at Pickel Meadow, California, on the date on which the student ~~enrolled at~~ *is admitted to* an institution of the System if such students *enroll and* maintain continuous enrollment at an institution of the System;

(d) All students who are using benefits under the Marine Gunnery Sergeant John David Fry Scholarship pursuant to 38 U.S.C. § 3311(b)(8);

(e) All public school teachers who are employed full-time by school districts in the State of Nevada;

(f) All full-time teachers in private elementary, secondary and postsecondary educational institutions in the State of Nevada whose curricula meet the requirements of chapter 394 of NRS;

(g) Employees of the System who take classes other than during their regular working hours;

(h) Members of the Armed Forces of the United States who are on active duty and stationed at a military installation in the State of



Nevada or a military installation in another state which has a specific nexus to this State, including, without limitation, the Marine Corps Mountain Warfare Training Center located at Pickel Meadow, California;

(i) Veterans of the Armed Forces of the United States who were honorably discharged and who were on active duty while stationed at a military installation in the State of Nevada or a military installation in another state which has a specific nexus to this State, including, without limitation, the Marine Corps Mountain Warfare Training Center located at Pickel Meadow, California, on the date of discharge;

(j) Except as otherwise provided in subsection 3, veterans of the Armed Forces of the United States who were honorably discharged within the 5 years immediately preceding the date of matriculation of the veteran at a university, state college or community college within the System; ~~and~~

(k) Veterans of the Armed Forces of the United States who have been awarded the Purple Heart ~~and~~; and

(l) Students who graduated from a high school located in this State, regardless of whether the student or the family of the student have been bona fide residents of the State of Nevada for at least 12 months before the matriculation of the student at a university, state college or community college within the System.

3. The Board of Regents may grant more favorable exemptions from tuition charges for veterans of the Armed Forces of the United States who were honorably discharged than the exemption provided pursuant to paragraph (j) of subsection 2, if required for the receipt of federal money.

4. The Board of Regents may grant exemptions from tuition charges each semester to other worthwhile and deserving students from other states and foreign countries, in a number not to exceed a number equal to 3 percent of the total matriculated enrollment of students for the last preceding fall semester.

Sec. 27.1. NRS 396.585 is hereby amended to read as follows:

396.585 1. The Board of Regents shall require each student who participates as a member of a varsity athletic team which represents ~~the University of Nevada, Reno, or the University of Nevada, Las Vegas,~~ *an institution within the System* to make satisfactory progress toward obtaining a degree as a condition of participation as a member of the team.

2. The Board of Regents shall establish standards for determining whether a student is making satisfactory progress toward obtaining his or her degree as required by this section. ~~The~~ *Except as otherwise provided in section 24.95 of this act, the standards must:*



(a) Include a requirement that a student enroll in a sufficient number of courses in each semester that are required to obtain the academic degree the student is seeking to allow the student to complete the requirements for obtaining the degree within a reasonable period after the student's admission.

(b) Include a requirement that a student maintain a minimum grade point average in the courses required pursuant to paragraph (a).

Sec. 27.3. NRS 396.890 is hereby amended to read as follows:

396.890 1. The Board of Regents may administer, directly or through a designated officer or employee of the System, a program to provide loans for fees, books and living expenses to students in the nursing programs of the System.

2. Each student to whom a loan is made must:

(a) Have been a "bona fide resident" of Nevada, as that term is defined in NRS 396.540, for at least 6 months prior to the "matriculation" of the student in the System, as that term is defined pursuant to NRS 396.540;

(b) Be enrolled at the time the loan is made in a nursing program of the System for the purpose of becoming a licensed practical nurse or registered nurse;

(c) ~~[Fulfill]~~ *Except as otherwise provided in section 24.95 of this act, fulfill* all requirements for classification as a full-time student showing progression towards completion of the program; and

(d) ~~[Maintain]~~ *Except as otherwise provided in section 24.95 of this act, maintain* at least a 2.00 grade point average in each class and at least a 2.75 overall grade point average, on a 4.0 grading scale.

3. Each loan must be made upon the following terms:

(a) All loans must bear interest at 8 percent per annum from the date when the student receives the loan.

(b) Each student receiving a loan must repay the loan with interest following the termination of the student's education for which the loan is made. The loan must be repaid in monthly installments over the period allowed with the first installment due 1 year after the date of the termination of the student's education for which the loan is made. The amounts of the installments must not be less than \$50 and may be calculated to allow a smaller payment at the beginning of the period of repayment, with each succeeding payment gradually increasing so that the total amount due will have been paid within the period for repayment. The period for repayment of the loans must be:

(1) Five years for loans which total less than \$10,000.



(2) Eight years for loans which total \$10,000 or more, but less than \$20,000.

(3) Ten years for loans which total \$20,000 or more.

4. A delinquency charge may be assessed on any installment delinquent 10 days or more in the amount of 8 percent of the installment or \$4, whichever is greater, but not more than \$15.

5. The reasonable costs of collection and an attorney's fee may be recovered in the event of delinquency.

Sec. 27.5. NRS 396.930 is hereby amended to read as follows:

396.930 1. Except as otherwise provided in subsections 2 and 4, a student may apply to the Board of Regents for a Millennium Scholarship if the student:

(a) Except as otherwise provided in paragraph (e) of subsection 2, has been a resident of this State for at least 2 years before the student applies for the Millennium Scholarship;

(b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:

(1) After May 1, 2000, but not later than May 1, 2003; or

(2) After May 1, 2003, and, except as otherwise provided in paragraphs (c), (d) and (f) of subsection 2, not more than 6 years before the student applies for the Millennium Scholarship;

(c) Does not satisfy the requirements of paragraph (b) and:

(1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;

(2) Received his or her high school diploma within 4 years after he or she was regularly scheduled to graduate; and

(3) Applies for the Millennium Scholarship not more than 6 years after he or she was regularly scheduled to graduate from high school;

(d) Except as otherwise provided in paragraph (e), maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:

(1) A 3.00 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2003 or 2004;

(2) A 3.10 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2005 or 2006; or

(3) A 3.25 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2007 or a later graduating class;

(e) Does not satisfy the requirements of paragraph (d) and received at least the minimum score established by the Board of Regents on a college entrance examination approved by the Board of Regents that was administered to the student while the student



* S B 3 4 7 R 3 *

1 was enrolled as a pupil in a public or private high school in this
2 State; and

3 (f) Except as otherwise provided in NRS 396.936 ~~(f)~~ *and section*
4 *24.95 of this act*, is enrolled in at least:

5 (1) Nine semester credit hours in a community college within
6 the System;

7 (2) Twelve semester credit hours in another eligible
8 institution; or

9 (3) A total of 12 or more semester credit hours in eligible
10 institutions if the student is enrolled in more than one eligible
11 institution.

12 2. The Board of Regents:

13 (a) Shall define the core curriculum that a student must complete
14 in high school to be eligible for a Millennium Scholarship.

15 (b) Shall designate the courses in which a student must earn the
16 minimum grade point averages set forth in paragraph (d) of
17 subsection 1.

18 (c) May establish criteria with respect to students who have been
19 on active duty serving in the Armed Forces of the United States to
20 exempt such students from the 6-year limitation on applications that
21 is set forth in subparagraph (2) of paragraph (b) of subsection 1.

22 (d) Shall establish criteria with respect to students who have a
23 documented physical or mental disability or who were previously
24 subject to an individualized education program under the
25 Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et
26 seq., or a plan under Title V of the Rehabilitation Act of 1973, 29
27 U.S.C. §§ 791 et seq. The criteria must provide an exemption for
28 those students from:

29 (1) The 6-year limitation on applications that is set forth in
30 subparagraph (2) of paragraph (b) of subsection 1 and subparagraph
31 (3) of paragraph (c) of subsection 1 and any limitation applicable to
32 students who are eligible pursuant to subparagraph (1) of paragraph
33 (b) of subsection 1.

34 (2) The minimum number of credits prescribed in paragraph
35 (f) of subsection 1.

36 (e) Shall establish criteria with respect to students who have a
37 parent or legal guardian on active duty in the Armed Forces of the
38 United States to exempt such students from the residency
39 requirement set forth in paragraph (a) of subsection 1 or
40 subsection 4.

41 (f) Shall establish criteria with respect to students who have
42 been actively serving or participating in a charitable, religious or
43 public service assignment or mission to exempt such students from
44 the 6-year limitation on applications that is set forth in subparagraph

45 (2) of paragraph (b) of subsection 1. Such criteria must provide for



* S B 3 4 7 R 3 *

the award of Millennium Scholarships to those students who qualify for the exemption and who otherwise meet the eligibility criteria to the extent that money is available to award Millennium Scholarships to the students after all other obligations for the award of Millennium Scholarships for the current school year have been satisfied.

3. If the Board of Regents requires a student to successfully complete courses in mathematics or science to be eligible for a Millennium Scholarship, a student who has successfully completed one or more courses in computer science described in NRS 389.0186 must be allowed to apply not more than one unit of credit received for the completion of such courses toward that requirement.

4. Except as otherwise provided in paragraph (c) of subsection 1, for students who did not graduate from a public or private high school in this State and who, except as otherwise provided in paragraph (e) of subsection 2, have been residents of this State for at least 2 years, the Board of Regents shall establish:

(a) The minimum score on a standardized test that such students must receive; or

(b) Other criteria that students must meet, to be eligible for Millennium Scholarships.

5. In awarding Millennium Scholarships, the Board of Regents shall enhance its outreach to students who:

(a) Are pursuing a career in education or health care;

(b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or

(c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.

6. The Board of Regents shall establish a procedure by which an applicant for a Millennium Scholarship is required to execute an affidavit declaring the applicant's eligibility for a Millennium Scholarship pursuant to the requirements of this section. ~~{The affidavit must include a declaration that the applicant is a citizen of the United States or has lawful immigration status, or that the applicant has filed an application to legalize the applicant's immigration status or will file an application to legalize his or her immigration status as soon as he or she is eligible to do so.}~~

Sec. 27.7. NRS 396.934 is hereby amended to read as follows:

396.934 1. Except as otherwise provided in this section, within the limits of money available in the Trust Fund, a student who is eligible for a Millennium Scholarship is entitled to receive:

(a) If he or she is enrolled in a community college within the System, including, without limitation, a summer academic term, \$40



per credit for each lower division course and \$60 per credit for each upper division course in which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the community college that are not otherwise satisfied by other grants or scholarships, whichever is less. The Board of Regents shall provide for the designation of upper and lower division courses for the purposes of this paragraph.

(b) If he or she is enrolled in a state college within the System, including, without limitation, a summer academic term, \$60 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the state college that are not otherwise satisfied by other grants or scholarships, whichever is less.

(c) If he or she is enrolled in another eligible institution, including, without limitation, a summer academic term, \$80 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the university that are not otherwise satisfied by other grants or scholarships, whichever is less.

(d) If he or she is enrolled in more than one eligible institution, including, without limitation, a summer academic term, the amount authorized pursuant to paragraph (a), (b) or (c), or a combination thereof, in accordance with procedures and guidelines established by the Board of Regents.

➤ In no event may a student who is eligible for a Millennium Scholarship receive more than the cost of 15 semester credits per semester pursuant to this subsection.

2. No student may be awarded a Millennium Scholarship:

(a) To pay for remedial courses.

(b) For a total amount in excess of \$10,000.

3. Except as otherwise provided in NRS 396.936 ~~H~~ **and section 24.95 of this act**, a student who receives a Millennium Scholarship shall:

(a) Make satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 8; and

(b) Maintain at least a 2.75 grade point average on a 4.0 grading scale for each semester of enrollment in the Governor Guinn Millennium Scholarship Program.

4. A student who receives a Millennium Scholarship is encouraged to volunteer at least 20 hours of community service for this State, a political subdivision of this State or a charitable organization that provides service to a community or the residents of a community in this State during each year in which the student receives a Millennium Scholarship.



5. If a student does not satisfy the requirements of subsection 3 during one semester of enrollment, excluding a summer academic term, he or she is not eligible for the Millennium Scholarship for the succeeding semester of enrollment. If such a student:

(a) Subsequently satisfies the requirements of subsection 3 in a semester in which he or she is not eligible for the Millennium Scholarship, the student is eligible for the Millennium Scholarship for the student's next semester of enrollment.

(b) Fails a second time to satisfy the requirements of subsection 3 during any subsequent semester, excluding a summer academic term, the student is no longer eligible for a Millennium Scholarship.

6. A Millennium Scholarship must be used only:

(a) For the payment of registration fees and laboratory fees and expenses;

(b) To purchase required textbooks and course materials; and

(c) For other costs related to the attendance of the student at the eligible institution.

7. The Board of Regents shall certify a list of eligible students to the State Treasurer. The State Treasurer shall disburse a Millennium Scholarship for each semester on behalf of an eligible student directly to the eligible institution in which the student is enrolled, upon certification from the eligible institution of the number of credits for which the student is enrolled, which must meet or exceed the minimum number of credits required for eligibility and certification that the student is in good standing and making satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 8. The Millennium Scholarship must be administered by the eligible institution as other similar scholarships are administered and may be used only for the expenditures authorized pursuant to subsection 6. If a student is enrolled in more than one eligible institution, the Millennium Scholarship must be administered by the eligible institution at which the student is enrolled in a program of study leading to a recognized degree or certificate.

8. The Board of Regents shall establish:

(a) Criteria for determining whether a student is making satisfactory academic progress toward a recognized degree or certificate for purposes of subsection 7.

(b) Procedures to ensure that all money from a Millennium Scholarship awarded to a student that is refunded in whole or in part for any reason is refunded to the Trust Fund and not the student.

(c) Procedures and guidelines for the administration of a Millennium Scholarship for students who are enrolled in more than one eligible institution.



Sec. 27.9. NRS 396.945 is hereby amended to read as follows:

396.945 1. The Board shall annually award the Memorial Scholarship to:

(a) Two recipients who are students enrolled at:

(1) The University of Nevada, Reno, Great Basin College or Sierra Nevada College;

(2) A nonprofit university which awards a bachelor's degree in education to residents of northern Nevada; or

(3) Any other college or university which awards a bachelor's degree in education and which is designated by the Board as an institution representative of northern Nevada; and

(b) Two recipients who are students enrolled at:

(1) The University of Nevada, Las Vegas, or Nevada State College;

(2) A nonprofit university which awards a bachelor's degree in education to residents of southern Nevada; or

(3) Any other college or university which awards a bachelor's degree in education and which is designated by the Board as an institution representative of southern Nevada.

2. The Board shall establish additional criteria governing the annual selection of each recipient of the Memorial Scholarship, which must include, without limitation, a requirement that a recipient:

(a) Be in or entering his or her senior year at an academic institution described in subsection 1;

(b) Satisfy the eligibility requirements for a Millennium Scholarship set forth in NRS 396.930;

(c) ~~Have~~ *Except as otherwise provided in section 24.95 of this act, have* a college grade point average of not less than 3.5 on a 4.0 grading scale or, if enrolled at an academic institution that does not use a grade point system to measure academic performance, present evidence acceptable to the Board that demonstrates a commensurate level of academic achievement;

(d) Have a declared major in elementary education or secondary education;

(e) Have a stated commitment to teaching in this State following graduation; and

(f) Have a record of community service.

3. A student who satisfies the criteria established pursuant to this section may apply for a Memorial Scholarship by submitting an application to the Office of the State Treasurer on a form provided on the Internet website of the State Treasurer.

4. The State Treasurer shall forward all applications received pursuant to subsection 3 to the Board. The Board shall review and evaluate each application received from the State Treasurer and



1 select each recipient of the Memorial Scholarship in accordance
2 with the criteria established pursuant to this section.

3 5. To the extent of available money in the account established
4 pursuant to NRS 396.940, the annual Memorial Scholarship may be
5 awarded to each selected recipient in an amount not to exceed
6 \$5,000 to pay the educational expenses of the recipient for the
7 school year which are authorized by subsection 6 and which are not
8 otherwise paid for by the Millennium Scholarship awarded to the
9 recipient.

10 6. A Memorial Scholarship must be used only:

11 (a) For the payment of registration fees and laboratory fees and
12 expenses;

13 (b) To purchase required textbooks and course materials; and

14 (c) For other costs related to the attendance of the student at the
15 academic institution in which he or she is enrolled.

16 7. As used in this section, "Board" means the Board of
17 Trustees of the College Savings Plans of Nevada created by
18 NRS 353B.005.

19 **Sec. 27.93.** NRS 396.952 is hereby amended to read as
20 follows:

21 396.952 1. The Silver State Opportunity Grant Program is
22 hereby created for the purpose of awarding grants to eligible
23 students to pay for a portion of the cost of education at a community
24 college or state college within the System.

25 2. The Board of Regents shall administer the Program.

26 3. In administering the Program, the Board of Regents shall for
27 each semester, subject to the limits of money available for this
28 purpose, award a grant to each eligible student to pay for a portion
29 of the cost of education at a community college or state college
30 within the System.

31 4. To be eligible for a grant awarded under the Program, a
32 student must:

33 (a) Except as otherwise provided in this section, be enrolled, or
34 accepted to be enrolled, during a semester in at least 12 credit hours
35 at a community college or state college within the System;

36 (b) Be enrolled in a program of study leading to a recognized
37 degree or certificate;

38 (c) Demonstrate proficiency in English and mathematics
39 sufficient for placement into college-level English and mathematics
40 courses pursuant to regulations adopted by the Board of Regents for
41 such placement;

42 (d) Be a bona fide resident of the State of Nevada for the
43 purposes of determining pursuant to NRS 396.540 whether the
44 student is assessed a tuition charge ~~to~~ *or have graduated from a*
45 *high school located in this State;* and



(e) ~~[Complete]~~ *Except as otherwise provided in subsection 6, complete* the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090.

5. A student who is enrolled, or accepted to be enrolled, in the final semester of his or her program of study in less than 12 credit hours at a community college or state college within the System is eligible for a grant awarded under the Program.

6. To the extent money is available, the Board of Regents may prescribe an alternative determination for financial aid for a student who is prohibited by law from completing the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090 pursuant to paragraph (e) of subsection 4. If the Board of Regents prescribes an alternative determination for financial aid, a student who is prohibited by law from completing the Free Application for Federal Student Aid shall complete the alternative determination for each semester of participation in the Program on or before the deadline prescribed by the Board of Regents.

Sec. 27.95. NRS 396.956 is hereby amended to read as follows:

396.956 1. The Board of Regents:

(a) Shall adopt regulations prescribing the procedures and standards for determining the eligibility of a student for a grant from the Program.

(b) Shall adopt regulations prescribing the methodology by which the Board of Regents or a designee thereof will calculate:

(1) The cost of education of a student at each community college and state college within the System, which must be consistent with the provisions of 20 U.S.C. § 1087II.

(2) For each student, the amounts of the student contribution, family contribution and federal contribution to the cost of education of the student.

(3) The maximum amount of the grant for which a student is eligible.

(c) Shall adopt regulations prescribing the process by which each student may meet the credit-hour requirement described in NRS 396.952 for eligibility for a grant awarded under the Program.

(d) May adopt any other regulations necessary to carry out the Program.

2. The regulations prescribed pursuant to this section must provide that:

(a) In determining the student contribution to the cost of education, the student contribution must not exceed the amount that the Board of Regents determines the student reasonably could be expected to earn from employment during the time the student is enrolled at a community college or state college within the System,



including, without limitation, during breaks between semesters. This paragraph and any regulations adopted pursuant to this section must not be construed to require a student to seek or obtain employment as a condition of eligibility for a grant under the Program.

(b) Determination of the family contribution to the cost of education must be based on the family resources reported in the Free Application for Federal Student Aid *or, if the student is prohibited by law from completing the Free Application for Federal Student Aid and the Board of Regents prescribes an alternative determination for financial aid pursuant to subsection 6 of NRS 396.952, the alternative determination for financial aid* submitted by the student.

(c) Determination of the federal contribution to the cost of education must be equal to the total amount that the student and his or her family are expected to receive from the Federal Government as grants.

Sec. 27.97. NRS 396.9665 is hereby amended to read as follows:

396.9665 1. To be eligible to receive a Nevada Promise Scholarship, a student must:

(a) Be a bona fide resident of this State, as construed in NRS 396.540 ~~§~~, *or have graduated from a high school located in this State.*

(b) Have not previously been awarded an associate's degree or bachelor's degree.

(c) Have obtained a high school diploma awarded by a public or private high school located in this State or public high school that is located in a county that borders this State and accepts pupils who are residents of this State or have successfully completed the high school equivalency assessment selected by the State Board pursuant to NRS 390.055 before 20 years of age.

(d) Complete the application for the Nevada Promise Scholarship Program in accordance with the regulations prescribed by the Board of Regents.

(e) Complete the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090 or, if the student is prohibited by law from completing the Free Application for Federal Student Aid, an alternative determination for financial aid prescribed by the Board of Regents for each academic year of participation in the Program on or before the deadline prescribed by the Board of Regents.

(f) Before enrolling in a community college, participate in one training meeting related to financial aid, the Free Application for Federal Student Aid and college orientation, as prescribed by the Board of Regents by regulation.



(g) Have met at least once with a mentor assigned to the student through the mentoring program established by the Board of Regents pursuant to NRS 396.965 before the first semester of enrollment at a community college and at least twice for each academic year while participating in the Program.

(h) Complete at least 8 hours of community service during the last year of high school and before the first semester of enrollment at a community college and at least 8 hours of community service each semester thereafter, not including summer academic terms, while participating in the Program. Community service performed to satisfy the requirements of this paragraph must not include religious proselytizing or service for which the student receives any type of compensation or which directly benefits a member of the family of the student.

(i) Submit all information deemed necessary by the Board of Regents to determine the student's eligibility for gift aid.

(j) Except as otherwise provided in subsection 2, be enrolled in at least 12 semester credit hours in a program of study leading to a recognized degree or certificate at a community college for the fall semester of the academic year immediately following the school year in which the student was awarded a high school diploma or have successfully completed the high school equivalency assessment selected by the State Board pursuant to NRS 390.055.

(k) Except as otherwise provided in subsection 2 and this paragraph, be enrolled in at least 12 semester credit hours in a program of study leading to a recognized degree or certificate at a community college for each fall semester and spring semester beginning with the first semester for which the student received a Nevada Promise Scholarship, not including summer academic terms. A student who is on schedule to graduate at:

(1) The end of a semester may enroll in the number of semester credit hours required to graduate.

(2) The end of a fall semester is not required to enroll in credit hours for the spring semester.

(l) Meet satisfactory academic progress, as defined by federal requirements established pursuant to Title IV of the Higher Education Act of 1965, 20 U.S.C. §§ 1001 et seq., and determined by the community college in which the student is enrolled.

2. The Board of Regents shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:



(a) The limitation on eligibility for a Nevada Promise Scholarship set forth in paragraph (b) of subsection 3; and

(b) The minimum number of credits prescribed in paragraphs (j) and (k) of subsection 1.

3. A student who meets the requirements of subsection 1 is eligible for a Nevada Promise Scholarship from the Program until the occurrence of the first of the following events:

(a) The student is awarded an associate's degree or bachelor's degree; or

(b) Except as otherwise provided in subsection 2, the student receives a Nevada Promise Scholarship from the Program for 2 academic years, not including the initial academic year.

Sec. 27.99. NRS 396.968 is hereby amended to read as follows:

396.968 1. The Board of Regents shall award Nevada Promise Scholarships in accordance with this section to students who are enrolled at a community college and are eligible to receive such scholarships under the provisions of NRS 396.9665.

2. For each eligible student, the Board of Regents shall:

(a) Calculate the maximum amount of a Nevada Promise Scholarship which the student is eligible to receive based on criteria established by regulation pursuant to this section.

(b) Determine the actual amount of the Nevada Promise Scholarship, if any, which will be awarded to the student, which must not exceed the maximum amount calculated pursuant to paragraph (a), but which may be in a lesser amount if the Board of Regents receives notice from the State Treasurer pursuant to subsection 3 that the money available in the Nevada Promise Scholarship Account for any semester is insufficient to award to all eligible students the maximum amount of a Nevada Promise Scholarship which each student is eligible to receive.

(c) If the student is to receive a Nevada Promise Scholarship, award the student a Nevada Promise Scholarship in the amount determined pursuant to paragraph (b). The Board of Regents shall disburse the amount of the Nevada Promise Scholarship awarded to the student, on behalf of the student, directly to the community college in which the student is enrolled.

3. The Board of Regents shall submit a request for a disbursement from the Nevada Promise Scholarship Account created by NRS 396.9645 for the maximum amount of money that will be required to fund a scholarship for each eligible student. Within the limits of money available in the Nevada Promise Scholarship Account, the State Treasurer shall disburse the amount requested to the Board of Regents for disbursement to each community college. If there is insufficient money in the Account to



disburse that amount to each community college, the State Treasurer shall provide notice that insufficient money remains in the Nevada Promise Scholarship Account to the Board of Regents. The State Treasurer shall include in the notice the amount of money available for the award of Nevada Promise Scholarships for the academic year and request that a new request be submitted.

4. The Board of Regents shall adopt regulations prescribing:

(a) The criteria for determining the maximum amount of a Nevada Promise Scholarship for an eligible student which is equal to the difference between the amount of the registration fee and other mandatory fees charged to the student by the community college in which the student is enrolled for the academic year, excluding any amount of those fees that is waived by the community college in which the student is enrolled, and the total amount of any other gift aid received by the student for the academic year.

(b) The procedures for submitting a request for disbursement from the Nevada Promise Scholarship Account.

(c) The procedures and standards for determining the actual amount of the Nevada Promise Scholarship which will be awarded to each student upon receiving notice that there is insufficient money to award all eligible students the maximum amount of the scholarship which each student is eligible to receive. Such procedures and standards ~~[-~~

~~— (1) Must prohibit the Board of Regents from awarding any money to a student who is prohibited by law from completing the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090 unless all students who have completed the Free Application for Federal Student Aid have been awarded the maximum amount calculated pursuant to paragraph (a) of subsection 2; and~~

~~— (2) May} may include, without limitation, administration of the program on a first-come, first-served basis for all students who [have completed the Free Application for Federal Student Aid and] are [otherwise} eligible to participate in the Program.~~

(d) Procedures to ensure that all money from a Nevada Promise Scholarship awarded to a student that is refunded in whole or in part for any reason is refunded to the Nevada Promise Scholarship Account and not the student.

Sec. 28. NRS 49.2545 is hereby amended to read as follows:

49.2545 “Victim’s advocate” means a person who works for a nonprofit program, a program of a university, state college or community college within the Nevada System of Higher Education or a program of a tribal organization which provides assistance to victims *or who provides services to a victim of an alleged incident of sexual misconduct pursuant to sections 2 to 27, inclusive, of*



1 *this act* with or without compensation and who has received at least
2 20 hours of relevant training.

3 **Sec. 28.5.** NRS 239.010 is hereby amended to read as follows:

4 239.010 1. Except as otherwise provided in this section and
5 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
6 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
7 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
8 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
9 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
10 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
11 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
12 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,
13 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
14 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,
15 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,
16 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
17 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
18 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
19 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
20 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
21 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
22 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,
23 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,
24 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,
25 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,
26 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
27 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,
28 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
29 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
30 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
31 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
32 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
33 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
34 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
35 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
36 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
37 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
38 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
39 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
40 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
41 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
42 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
43 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
44 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
45 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,



1 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
2 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
3 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
4 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
5 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
6 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
7 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
8 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
9 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
10 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
11 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
12 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
13 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
14 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
15 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
16 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
17 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
18 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
19 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
20 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
21 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
22 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
23 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
24 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
25 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
26 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
27 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
28 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
29 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
30 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
31 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
32 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
33 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
34 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
35 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
36 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
37 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
38 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
39 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600,
40 *sections 12.5, 14, 15 and 25 of this act*, sections 35, 38 and 41 of
41 chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391,
42 Statutes of Nevada 2013 and unless otherwise declared by law to be
43 confidential, all public books and public records of a governmental
44 entity must be open at all times during office hours to inspection by
45 any person, and may be fully copied or an abstract or memorandum



1 may be prepared from those public books and public records. Any
2 such copies, abstracts or memoranda may be used to supply the
3 general public with copies, abstracts or memoranda of the records or
4 may be used in any other way to the advantage of the governmental
5 entity or of the general public. This section does not supersede or in
6 any manner affect the federal laws governing copyrights or enlarge,
7 diminish or affect in any other manner the rights of a person in any
8 written book or record which is copyrighted pursuant to federal law.

9 2. A governmental entity may not reject a book or record
10 which is copyrighted solely because it is copyrighted.

11 3. A governmental entity that has legal custody or control of a
12 public book or record shall not deny a request made pursuant to
13 subsection 1 to inspect or copy or receive a copy of a public book or
14 record on the basis that the requested public book or record contains
15 information that is confidential if the governmental entity can
16 redact, delete, conceal or separate, including, without limitation,
17 electronically, the confidential information from the information
18 included in the public book or record that is not otherwise
19 confidential.

20 4. If requested, a governmental entity shall provide a copy of a
21 public record in an electronic format by means of an electronic
22 medium. Nothing in this subsection requires a governmental entity
23 to provide a copy of a public record in an electronic format or by
24 means of an electronic medium if:

25 (a) The public record:

26 (1) Was not created or prepared in an electronic format; and

27 (2) Is not available in an electronic format; or

28 (b) Providing the public record in an electronic format or by
29 means of an electronic medium would:

30 (1) Give access to proprietary software; or

31 (2) Require the production of information that is confidential
32 and that cannot be redacted, deleted, concealed or separated from
33 information that is not otherwise confidential.

34 5. An officer, employee or agent of a governmental entity who
35 has legal custody or control of a public record:

36 (a) Shall not refuse to provide a copy of that public record in the
37 medium that is requested because the officer, employee or agent has
38 already prepared or would prefer to provide the copy in a different
39 medium.

40 (b) Except as otherwise provided in NRS 239.030, shall, upon
41 request, prepare the copy of the public record and shall not require
42 the person who has requested the copy to prepare the copy himself
43 or herself.



1 **Sec. 28.6.** NRS 241.016 is hereby amended to read as follows:
2 241.016 1. The meetings of a public body that are quasi-
3 judicial in nature are subject to the provisions of this chapter.

4 2. The following are exempt from the requirements of this
5 chapter:

6 (a) The Legislature of the State of Nevada.

7 (b) Judicial proceedings, including, without limitation,
8 proceedings before the Commission on Judicial Selection and,
9 except as otherwise provided in NRS 1.4687, the Commission on
10 Judicial Discipline.

11 (c) Meetings of the State Board of Parole Commissioners when
12 acting to grant, deny, continue or revoke the parole of a prisoner or
13 to establish or modify the terms of the parole of a prisoner.

14 3. Any provision of law, including, without limitation, NRS
15 91.270, 219A.210, 228.495, 239C.140, 239C.420, 281A.350,
16 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415,
17 287.04345, 287.338, 288.220, 288.590, 289.387, 295.121, 360.247,
18 388.261, 388A.495, 388C.150, 388D.355, 388G.710, 388G.730,
19 392.147, 392.467, 394.1699, 396.3295, 414.270, 422.405, 433.534,
20 435.610, 442.774, 463.110, 480.545, 622.320, 622.340, 630.311,
21 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170,
22 696B.550, 703.196 and 706.1725, *and section 12.5 of this act*,
23 which:

24 (a) Provides that any meeting, hearing or other proceeding is not
25 subject to the provisions of this chapter; or

26 (b) Otherwise authorizes or requires a closed meeting, hearing
27 or proceeding,

28 ➤ prevails over the general provisions of this chapter.

29 4. The exceptions provided to this chapter, and electronic
30 communication, must not be used to circumvent the spirit or letter of
31 this chapter to deliberate or act, outside of an open and public
32 meeting, upon a matter over which the public body has supervision,
33 control, jurisdiction or advisory powers.

34 **Sec. 28.7.** Chapter 353B of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *A prepaid tuition program or college savings program*
37 *established pursuant to this chapter must not prohibit a person or*
38 *his or her family from participating in such a program based*
39 *solely on the immigration or citizenship status of the person or his*
40 *or her family.*

41 **Sec. 29.** The provisions of subsection 1 of NRS 218D.380 do
42 not apply to any provision of this act which adds or revises a
43 requirement to submit a report to the Legislature.

44 **Sec. 30.** 1. This section becomes effective upon passage and
45 approval.



- 1 2. Section 12 of this act becomes effective upon passage and
2 approval for the purpose of appointing members to the Task Force
3 on Sexual Misconduct at Institutions of Higher Education and on
4 July 1, 2021, for all other purposes.
5 3. Sections 1 to 11, inclusive, and 12.5 to 29, inclusive, of this
6 act become effective on July 1, 2021.



