

**BOARD OF REGENTS
BRIEFING PAPER**

1. AGENDA ITEM TITLE: New Code Provision: Employee COVID-19 Vaccine Requirement

MEETING DATE: September 30, 2021

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

OVERVIEW

On March 12, 2020, Nevada Governor Steve Sisolak declared a state of emergency for the State of Nevada due to the COVID-19 pandemic. On March 13, 2020, former President of the United States Donald Trump declared a state of emergency for the United States due to the COVID-19 pandemic. Since that time, residents of Nevada, including members of the Nevada System of Higher Education (NSHE) community, have experienced varying social distancing, capacity restriction, face covering, and lockdown protocols to mitigate the spread of the virus.

On December 11, 2020, the first COVID-19 vaccine was issued an Emergency Use Authorization (EUA) by the United States Food and Drug Administration (FDA) and a tiered process of administration of the vaccine to members of the public began based on such factors as age, job, and high-risk health vulnerability. Additional COVID-19 vaccines were issued EUA approval by the FDA and a statewide and national effort occurred throughout the Spring 2021 to vaccinate members of the public.

On April 5, 2021, the COVID-19 vaccine became available to all members of the public aged 16 years old and older.

On June 1, 2021, Nevada had a 14-day average of 137 new COVID-19 cases and most COVID-19 mitigation restrictions were lifted throughout Nevada. With the spread of new COVID-19 variants, by August 1, 2021, Nevada's 14-day average of new COVID-19 cases increased to 1,056.

On August 4, 2021, the NSHE COVID-19 Task Force unanimously recommended that NAC 441A.775, the regulation governing university student vaccine requirements, be amended by the State Board of Health to include a COVID-19 vaccine requirement for all NSHE students at all higher education institutions in Nevada.

On August 18, 2021, the NSHE COVID-19 Task Force unanimously recommended that either the State Board of Health or the Board of Regents impose a COVID-19 vaccine mandate for all NSHE employees.

On August 20, 2021, the health care professionals on the State Board of Health unanimously held that the COVID-19 vaccine was safe and necessary to include as a new vaccine requirement and amended NAC 441A.755 to impose a COVID-19 mandate for all NSHE students at all institutions. The student vaccine mandate is to become effective on November 1, 2021, which represents 73 days from passage.

On September 10, 2021, the Board of Regents unanimously voted to direct the Office of the Chancellor to draft new policies and procedures to implement a COVID-19 vaccine requirement for all NSHE employees. The employee vaccine mandate is to become effective on December 1, 2021. If approved by the Board of Regents on September 30, 2021, the employee vaccine mandate would become effective 62 days from passage.

DRAFTING AND STAKEHOLDER PROCESS

On September 13, 2021, the Office of the Chancellor completed an initial draft of policies and procedures, as a new Chapter 12 in Title 2 of the Code that was consistent with the Board of Regents September 10, 2021, directive. Thereafter, the Office of the Chancellor has engaged in an expedited shared governance and roundtable process with NSHE stakeholder groups to review, receive feedback, and edits to the new vaccine mandate provisions. The roundtable sessions occurred as follows:

September 16, 2021: COVID-19 Task Force
and General Counsels

September 17, 2021: Human Resources Advisory Council

September 20, 2021: Faculty Senates
and Classified Employees Council

September 20, 2021: Council of Presidents,
Academic Officers, and Business Officers

September 21, 2021: Public Information Officers and
Equity Diversity and Inclusion Council

Approximately 338 people attended the roundtable sessions.¹ Representatives of the Nevada Faculty Alliance (NFA) also attended and provided feedback. Approximately 103 substantive comments were received during the roundtable sessions. Throughout this process, seven drafts of the new vaccine policies and procedures were developed and distributed for review.

LEGAL AUTHORITY

The United States Supreme Court has recognized the legal authority of the government to impose vaccine mandates for over 100 years.² The United States Equal Employment Commission (EEOC) has upheld the authority of an employer to impose a COVID-19 vaccine requirement on employees. The Board of Regents retains authority in Section 1.3.3(b), Chapter 1, Title 2 of the Code to enact emergency amendments that may become effective upon approval. Emergency Code amendments are temporary and must be re-agenized before the Board within 120 days of their original effective date.

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1. Of note, some individuals in this total attended more than one roundtable session.
 2. *See Zucht v. King*, 260 U.S. 174, 43 S.Ct. 24 (1922); *Jacobson v. Massachusetts*, 197 U. S. 11, 25 S.Ct. 358 (1905).

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Approval. The proposed new Chapter 12 in Title 2 of the Code establishes an emergency policy and procedure requirement that all NSHE employees, regardless of job title or status, receive a verifiable and complete Covid-19 vaccination series on or before December 1, 2021. The provisions set forth a notice of disciplinary procedures timeline and include the ability of employees to request a waiver from the requirement due to a medical condition or sincerely held religious belief. Failure of an employee to comply with the vaccine requirement will result in termination from employment.

4. IMPETUS (WHY NOW?):

Over the past 18 months since the COVID-19 pandemic was recognized as a state and national emergency, approximately 679,000 Americans have died as a result of the virus. To place this death toll in perspective, this total is now more than all American deaths that occurred during the 1918-19 Spanish Flu pandemic.

As of September 20, 2021, the vaccination rates of NSHE employees by institution, and system administration and system computing services, are as follows:

Desert Research Institute: 87.0%

System Administration: 85.2%

University of Nevada, Reno: 82.0%

Nevada State College: 80.8%

Truckee Meadows Community College: 77.0%

University of Nevada, Las Vegas: 75.5%

College of Southern Nevada: 71.5%

Western Nevada College: 68.3%

Great Basin College: 66.0%

The combined COVID-19 vaccination rate of all NSHE employees is currently 77.2%. Based upon the above employee COVID-19 vaccination rates, approximately 1 in 5 NSHE employees remain unvaccinated.

Currently, a 14-day average of 17 Nevadans die every day from COVID-19. The Director of the National Institute of Allergy and Infectious Disease and the Chief Medical Advisor to the President of the United States, Dr. Anthony Fauci, reported that over 99% of deaths from COVID-19 in June 2021 were unvaccinated individuals. The Director of the Centers for Disease Control and Prevention (CDC), Dr. Rochelle Walensky, reported that over 97% of hospitalizations due to COVID-19 were unvaccinated individuals.

The COVID-19 pandemic is a significant health and safety risk to every member of the NSHE community and has caused sickness and death. The pandemic has also resulted in the disruption of higher education teaching, learning, research, events, and a traditional campus experience. It has also caused a statewide budgetary and fiscal crisis, which has been felt throughout NSHE.

The American College Health Association (ACHA), along with the CDC and a multitude of local, state, federal, and private health care organizations and professionals, recommend that all eligible individuals receive a complete COVID-19 vaccine series as a necessary step to ending the pandemic.

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)

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL:

Requiring all NSHE employees to receive a verified and complete COVID-19 vaccine series by December 1, 2021, is necessary to maintain a healthy and safe campus and work environment for all students, employees, and members of the public to teach, learn, and research. It is also necessary to reduce the possibility of re-introduced classroom capacity restrictions, lockdowns, and increased remote instruction, which negatively impact all NSHE strategic goals.

6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- A COVID-19 vaccine is an act of community service and civic responsibility.
- A COVID-19 vaccine is the best medically and scientifically proven way to reduce hospitalizations and deaths from the virus and end the pandemic.
- A COVID-19 vaccine requirement for all NSHE employees is necessary to maintain the health and safety for all students, employees, and members of the public to teach, learn, and research.
- A COVID-19 vaccine requirement is consistent with NSHE's strategic goals and core commitment to medicine, science, and research.
- Policies and procedures in the new Chapter 12 in Title 2 of the Code were reviewed and drafted with stakeholder feedback and honoring a shared governance commitment.
- Policies and procedures in the new Chapter 12 in Title 2 of the Code are firm but reasonable and fair, and provide an opportunity for employees to request a waiver due to a medical condition or religious belief.
- Policies and procedures in the new Chapter 12 in Title 2 of the Code provide several opportunities for most employees to re-consider and receive a verified COVID-19 vaccine series: an approximately 60-day period between October 1, 2021, and December 1, 2021; an approximately 30-day period from December 1, 2021, to December 31, 2021; and an approximately 30-day period from January 1, 2022, to January 31, 2022.
- Policies and procedures in the new Chapter 12 in Title 2 of the Code apply to all NSHE employee groups and new hires.

7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

Some individuals dispute the medical and scientific data supporting the COVID-19 vaccine, and its safety and effectiveness. Some individuals believe that the decision to receive a COVID-19 vaccine is a personal choice that should not be mandated by an employer or the government. Some individuals believe a COVID-19 vaccine requirement should not apply to all employees and should only apply to employees that currently work on a campus.

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

N/A

9. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

The Office of the Chancellor recommends that the policies and procedures set forth as a new Chapter 12 in Title 2 of the Code be approved and made effective immediately.

10. COMPLIANCE WITH BOARD POLICY:

- | |
|--|
| <input checked="" type="checkbox"/> Consistent With Current Board Policy: Emergency amendment pursuant Section 1.3.3(b), Chapter 1, Title 2 of Code. |
| <input checked="" type="checkbox"/> Amends Current Board Policy: Adds new Chapter 12 in Title 2 of Code. |
| <input checked="" type="checkbox"/> Amends Current Procedures & Guidelines Manual: Supersedes any contrary provisions. |
| <input type="checkbox"/> Other: _____ |
| <input checked="" type="checkbox"/> Fiscal Impact: Yes X No _____
Explain: A fiscal impact from this amendment is likely but unknown |

NEW CHAPTER

Title 2, Chapter 12, Sections 12.1 through 12.15 of the Nevada System of Higher Education Code

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

Title 2 – Nevada System of Higher Education Code

Chapter 12

Emergency COVID-19 Employee Vaccination Policy

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Emergency COVID-19 Employee Vaccination Policy

Section 12.1 Health and Safety Emergency Declaration

Due to the ongoing state, national, and global health and safety emergency caused by the COVID-19 pandemic, as declared by the Governor of the State of Nevada on March 12, 2020, and the President of the United States on March 13, 2020, the Board of Regents hereby enact this Chapter to protect the health, safety, and welfare of all students, employees, and members of the public within the Nevada System of Higher Education.

Section 12.2 Limited Purpose and Scope

This Chapter is an emergency and temporary amendment to the Code that is limited to the issue of employee COVID-19 vaccinations. Its purpose is to ensure that all employees within the Nevada System of Higher Education are fully vaccinated against the COVID-19 virus by December 1, 2021. No provision in this Chapter shall be used, cited, or relied upon to amend or impact any other policy, procedure, promise, right, or agreement that is outside of its express purpose and scope. The emergency provisions in this Chapter shall supersede, govern, and control all policies, procedures, terms and conditions of employment, and the workplace either express or implied to the contrary, including, but not limited to, those set forth in the Board of Regents Handbook, other provisions of the Code, and the Procedures and Guidelines Manual. The Board of Regents will re-evaluate the need for this Chapter as the emergency conditions underlying the COVID-19 pandemic substantially improve. In any event, this Chapter will be reconsidered at a public meeting of the Board of Regents prior to the beginning of the Fall 2022 Semester.

Section 12.3 Employee COVID-19 Vaccine Requirement

All employees of the Nevada System of Higher Education must receive a verified and complete COVID-19 vaccination series on or before December 1, 2021, and new hires must receive a verified and complete COVID-19 vaccination series prior to starting employment.

Section 12.4 Definitions

The terms and phrases used in the COVID-19 Vaccine Requirement shall have the following meaning.

A. Employee

The term “employee” means all tenured and untenured academic and administrative faculty; adjunct faculty; letter of appointment; classified staff; student employees; graduate assistants; post-doctoral fellows; research assistants; technologists; medical residents; resident physicians; temporary hourly; or any other individual, whether full-time, part-time, or hourly, who performs paid work.

B. Verified

The term “verified” means demonstrable proof of having received the vaccine as determined by the Office of Human Resources at the employee’s primary institution and documented in Workday, including, but not limited to, any one of the following:

- 1. Information in the Nevada WebIZ database as maintained by the Department of Health and Human Services, Nevada Division of Public and Behavioral Health and accessed through <https://izrecord.nv.gov>; or***
- 2. A vaccination card or certificate issued by an authorized government entity or health care provider; or***
- 3. Any other credible documentation through written or electronic means that establishes the employee has been vaccinated.***

C. Complete COVID-19 Vaccination Series

The phrase “complete COVID-19 vaccination series” means fully completing any of the following vaccinations:

- 1. Two doses of the Pfizer-BioNTech vaccine recommended 21 days apart; or***

2. *Two doses of the Moderna vaccine recommended 28 days apart; or*
3. *One dose of the Johnson & Johnson Janssen vaccine; or*
4. *Any other vaccine series for COVID-19 that receives emergency use authorization or approval by the United States Food and Drug Administration (FDA) after the effective date of the COVID-19 Vaccine Requirement; or*
5. *Any COVID-19 vaccine series that was administered internationally and has received an emergency use authorization or approval by the World Health Organization (WHO).*

Section 12.5 Discipline Procedures and Notifications for Non-Compliance

Failure of an employee to comply with the Employee COVID-19 Vaccine Requirement constitutes cause for termination of employment.

A. All Employees (Except Classified Employees)

The following procedures govern the timeframes for providing notice to all employees, except classified employees, of non-compliance with the COVID-19 Vaccine Requirement set forth in this Chapter.

1. Notice of Non-Compliance

On or before October 15, 2021, the Office of Human Resources of each institution, including, but not limited to, System Administration and System Computing Services, shall provide notice to every employee who does not have a record of having completed a COVID-19 vaccination series. This notice will include information on how the employee can correct any misinformation about their current vaccination status, resources available in their community to receive a vaccine, the ability to request a waiver, and a statement that failure to comply with the Employee COVID-19 Vaccine Requirement by December 1, 2021, will result in termination of employment.

2. Notice of Warning

On or before November 1, 2021, the Office of Human Resources of each institution, including, but not limited to, System Administration and System Computing Services, shall provide notice to every employee who does not have a record of having completed a COVID-19 vaccination series. This notice will include information on how the employee can correct any misinformation about their current vaccination status, resources available in their community to receive a vaccine, the ability to request a waiver, and a warning that failure to comply with the Employee COVID-19 Vaccine Requirement by December 1, 2021, will result in termination of employment.

3. Notice of Termination

On or before December 1, 2021, the Office of Human Resources of each institution, including, but not limited to, System Administration and System Computing Services, shall provide notice to every employee who does not have a record of having a complete COVID-19 vaccination series that they will be terminated from employment effective December 31, 2021, for non-compliance with the Employee COVID-19 Vaccine Requirement. This notice will include information on how the employee may request reconsideration of termination and to whom the request should be made. A notice of termination must be either hand delivered and/or mailed through the United States Postal Service to the employee's home address on file. A notice of termination must include a statement that its effective date is automatically stayed if the employee has submitted a request for a medical condition waiver or religious waiver that has not been approved or denied.

B. Classified Employees

Classified employees will also be subject to termination for cause due to non-compliance with the Employee COVID-19 Vaccine Requirement. However, the procedures set forth in Section 12.5.A shall not govern classified employees. Employees within the classified service shall receive all notices and be subject to disciplinary procedures in accordance with the policies and regulations established by the Nevada Department of Administration, Division of Human Resource Management, including Nevada Revised Statutes (NRS) Chapter 284; Nevada Administrative Code (NAC) Chapter 284; and any other applicable statute, regulation, or collective bargaining agreement.

C. Notice and Calendar Days

Unless otherwise specified in this Chapter, notices issued pursuant to this Chapter must be in writing and may be delivered via electronic means to the employee's work email account, hand delivered, and/or mailed through the United States Postal Service to the employee's home address on file. Notices are delivered upon sending the email, delivering in-person, or within three (3) days after placing them in the United States Postal Service regular mail. Defects in the form of a notice are not a valid basis for a request for reconsideration. All days calculated pursuant to this Chapter shall be calendar days and inclusive of all weekends and holidays.

Section 12.6 Request for Reconsideration

An employee who receives a notice of termination pursuant to this Chapter may file a request for reconsideration of the facts underlying the decision with their respective Office of Human Resources. A request for reconsideration may only be based upon a mistake of fact regarding the employee's COVID-19 vaccination status. No other basis for reconsideration shall be considered. A request for reconsideration must be in writing and submitted on or before December 31, 2021,

and it must be supported by verifiable facts and documentation. The effective date of termination shall be stayed until a request for reconsideration is approved or denied. If reconsideration is denied, the termination shall become effective on the date of denial.

Section 12.7 Request for Stay

At any time after an employee receives a notice of termination, an employee may file a request for a stay with supporting documentation with their respective Office of Human Resources. A request for a stay may only be based upon a showing that the employee has received the first dose of a two-shot COVID-19 vaccine series. No other basis for a stay shall be considered. A request for a stay with supporting documentation must be filed on or before December 31, 2021, and it must be supported by verifiable facts and documentation. A stay of the termination effective date will be granted to allow a reasonable amount of time for the employee to receive the second dose of the vaccine, but in no event shall the stay exceed forty (40) days. If the employee fails to complete the COVID-19 vaccination series within the stated time frame, the stay will be lifted and the termination shall become effective on that date. Timely submitting a request for a medical condition or religious waiver shall automatically stay the effective date of a notice of termination until the request is either approved or denied.

Section 12.8 Request for Medical Condition or Religious Belief Waiver

An employee may request a waiver from the Employee COVID-19 Vaccine Requirement due to a diagnosis of a pre-existing and individual medical condition which presents a medical contraindication to the COVID-19 vaccination or if receiving a vaccine would violate a sincerely held religious belief. Employees seeking a waiver must fully complete the required waiver request form and provide all requested information and certifications that are necessary to review and evaluate the request. Throughout the review process, an employee may be required to provide information to supplement their request for a medical condition or religious waiver or, if approved, to update their information from time to time.

Employee's requesting a waiver must sign a certification that the facts and information contained in the request are true and accurate, and the waiver is not being sought for an improper purpose or under a false pretense.

A. Medical Condition Waiver

A request for a waiver from the Employee COVID-19 Vaccine Requirement due to a diagnosis of a pre-existing and individual medical condition that presents a contraindication(s) to the COVID-19 vaccination must be supported and signed by a physician, nurse practitioner, or physician's assistant licensed to practice medicine and must include a written statement describing the nature and duration of the employee's medical condition, how receiving a COVID-19 vaccine would cause an unreasonable risk of harm to the employee, and any additional relevant information that would assist in reviewing the request.

B. Religious Belief Waiver

A request for a waiver from the Employee COVID-19 Vaccine Requirement based on an employee's sincerely held religious belief that prohibits the employee from receiving the COVID-19 vaccination must be supported by a written statement and any relevant information that may assist in evaluating the employee's request.

C. Procedure for Waiver Request Review

Waiver requests must be completed fully and submitted to the employee's respective Office of Human Resources on the forms provided in this Chapter and must be received on or before December 1, 2021, to be considered for review. No request for a waiver will be considered if it is submitted by an employee after December 1, 2021.

1. Initial Screening

Upon receipt, waiver requests shall be reviewed by the Office of Human Resources to determine if all required information in the waiver request is complete, including necessary certification signatures, dates, and statements. If required information is incomplete, the request shall be returned to the employee with notice of any deficiency. If the request is returned to the employee after December 1, 2021, the employee shall have ten (10) days within which to resubmit the request.

2. Review Committee

If the Office of Human Resources determines that the waiver request satisfies the initial review, the Office of Human Resources shall forward the waiver request to a Review Committee. The Review Committee shall be appointed by the Office of the President of each institution, or the Office of the Chancellor, as applicable, and shall consist of three (3) to five (5) members and include individuals with experience or knowledge in human resources, medicine and/or public health, appropriate safety-related accommodations and implementation, equal employment, or any other area of expertise that will assist in reviewing a waiver request and establishing appropriate accommodations. All information in the waiver request submitted by an employee will be maintained as confidential. During consideration of a waiver request, the Review Committee may request supplemental information or clarification from the employee. The Review Committee may also consult and seek legal guidance from the General Counsel of their respective institution. After review of the waiver request by the Review Committee is complete, the request will be either approved or denied. If the waiver request is denied, the Review Committee will provide the employee notice and a written basis for the denial.

3. Appeal

An employee may appeal the denial of a waiver request to the Office of the President of their respective institution, or for System Administration and System Computing Services employees, to the Office of the Chancellor, as applicable, or their designee, within seven (7) days of the date of the denial. An appeal must be in writing and set forth any mistake of fact or reason as to why the denial of the waiver request was in error. If an appeal is timely submitted, the effective date of a notice of termination shall be stayed until the appeal is final. Upon receiving a request for appeal, the Office of the President or the Office of the Chancellor, as applicable, or their designee, shall review the employee's waiver request, the basis for denial by the Review Committee, and the reasons for the appeal. The Office of the President, or the Office of the Chancellor, as applicable, shall issue a decision either affirming or reversing the decision of the Review Committee, or remanding the matter to the Review Committee for further consideration. A decision affirming or reversing an employee's appeal by the Office of the President, or the Office of the Chancellor, is final. A decision affirming or denying an employee's request by the Review Committee after remand is final.

D. Approved Waiver and COVID-19 Safety Protocols

Employees who are granted a waiver will be subject to reasonable and appropriate safety requirements to ensure the safety of themselves and the communities they serve as a member of a higher education organization. Examples of reasonable and appropriate safety requirements may include, but not be limited to, wearing face coverings, while inside or outside a structure or building or property owned or leased by the Board of Regents and/or an institution or sponsored events; undergoing weekly or periodic COVID-19 testing; exclusion from

the workplace upon a COVID-19 outbreak or cluster; or other measures as recommended by health care professionals to mitigate risks and dangers of COVID-19.

Section 12.9 Request for Reinstatement

An academic or administrative faculty member, a classified employee, or a technologist who is terminated for non-compliance with the Employee COVID-19 Vaccine Requirement may request to be reinstated to their former position of employment at any time within thirty (30) days of the effective date of their termination upon a verified showing of having completed a COVID-19 vaccination series. An employee's request for reinstatement must be submitted to the Office of Human Resources and approved by the Office of the President or the Chancellor, as applicable, of the respective institution. An employee's request that complies with the provisions of this Chapter shall be granted. An employee's reinstatement date shall be established by the Office of the President or the Chancellor, as applicable, and may be based upon amended job duties and the resource needs of the institution. A decision by the Office of the President or the Chancellor is final. A reinstated employee shall not be entitled to any retroactive compensation or benefits from the effective date of their termination to the date of their reinstatement.

Section 12.10 Miscellaneous Employee Provisions

A. New Hires and Job Postings

All candidates for employment hired after the effective date of this Chapter must receive a verified and complete COVID-19 vaccination series or an approved waiver request prior to any start date. All candidates will be notified on the job postings published after the effective date of this Chapter that a complete COVID-19 vaccination series is a requirement for employment.

B. Remote Work or Telecommuting Employees

Employees who exclusively work remotely or telecommute pursuant to an approved agreement with their respective institution are not subject to this Chapter. The COVID-19 Vaccine Requirement shall not be used as a basis or consideration for an employee to request or be approved to work remotely or telecommute. Employees who exclusively work remotely or telecommute shall be prohibited from being on property owned or leased in any capacity by the Board of Regents and/or an institution or at sponsored event without a verified complete COVID-19 vaccination series or an approved waiver when their presence is necessary for any work purposes.

C. Employees on Approved Leave or International Work

Employees who are on a leave of absence, sabbatical leave, continuous family medical leave, or other forms of long-term pre-approved non-annual leave, international research, or work during October 1, 2021, through December 31, 2021, shall not be subject to the disciplinary procedures and timeframes set forth in this Chapter. Employees who fall into these leave categories shall be notified by their respective Office of Human Resources that they must have a verified and complete COVID-19 vaccination series or an approved waiver request on file prior to the expiration of their leave or international trip and return to work. However, employees on intermittent family medical leave are subject to all provisions of this Chapter.

D. Contract Term and Condition

A provision shall be added as a mandatory term and condition of all contracts negotiated and signed after the effective date of the Employee COVID-19 Vaccine Requirement. An independent contractor, employees of a contractor, or subcontractor who perform any type of in-person work, including, but not limited to, the practice of medicine and health care,

consulting, training, construction, maintenance, and vendor services, on property owned or leased in any capacity by the Board of Regents and/or an institution or sponsored event, must have completed a COVID-19 vaccination series.

Section 12.11 Miscellaneous Vaccine Provisions

A. Boosters

The Employee COVID-19 Vaccine Requirement does not apply to any COVID-19 booster doses that may subsequently be authorized or recommended by the Centers for Disease Control and Prevention (CDC) or the United States Food and Drug Administration (FDA) after the effective date of this Chapter.

B. Vaccine Unavailability

If at any time between October 1, 2021, and December 1, 2021, a shortage in the availability of a COVID-19 vaccine occurs within the State of Nevada that renders the ability of employees to receive the vaccine impossible after good faith and reasonable attempts to do so, the Board of Regents shall reconsider the timelines set forth in this Chapter.

C. False or Misleading Information

Any employee who knowingly and willfully provides false, fraudulent, or forged documentation or provides false or misleading information to their respective Office of Human Resources regarding their COVID-19 vaccination status shall be terminated for cause and may be reported to the Office of the Nevada Attorney General and/or the United States Attorney's Office, District of Nevada for possible criminal prosecution.

Section 12.12 Interpretation, Implementation, and Forms

Any ambiguity or inconsistency in the interpretation of the provisions of this Chapter or omission or unforeseen circumstance in its implementation, including

the need to periodically update any required forms, may be resolved by the Office of the Chief General Counsel in consultation with the Human Resources Advisory Council in a manner that is consistent with this Chapter's purpose and intent.

Section 12.13 Effective Date

This Chapter shall become effective upon approval by the Board of Regents on September 30, 2021.

Section 12.14 Medical Condition Waiver Request



EMPLOYEE COVID-19 VACCINE REQUIREMENT MEDICAL CONDITION WAIVER REQUEST AND CERTIFICATION

CONFIDENTIAL

Board of Regents of the Nevada System of Higher Education

Instructions for completing this Waiver Request.

1. **Section 1:** To be completed by Employee: Employee and Institution Information.
2. **Section 2:** To be completed by Employee: Employee Certification.
3. **Section 3:** To be completed by Health Care Provider: Medical Condition Certification.
4. **Section 4:** To be completed by Office of Human Resources (**Official Use Only**).

SECTION 1: EMPLOYEE AND INSTITUTION INFORMATION (To be completed by EMPLOYEE)		
Employee Name:	Address:	Telephone Number(s): Office/Work: (____) _____ Home/Cell: (____) _____
NSHE Institution:	Office/Work Location:	Office/Work Email Address:

SECTION 2: EMPLOYEE CERTIFICATION (To be completed by EMPLOYEE)

Employee acknowledges, consents, and agrees to the following:

1. NSHE and its officials, including, but not limited to, Office of Human Resources, the Employee COVID-19 Waiver Request Review Committee, and health care experts outside of NSHE, may have access to information contained in this Waiver Request, Employee's personnel file, and other information as necessary to evaluate and review this request. PLEASE NOTE: Individuals having access to Employee's medical information will be required to maintain its confidentiality and it will be used for official purposes only.
2. NSHE and its officials may contact the health care provider listed on this Waiver Request to verify the information provided.
3. If this Waiver Request is granted, Employee may be required to comply with alternative policies and protocols as determined by NSHE and its officials to maintain the health and safety of Employee and all other individuals from COVID-19. Alternative policies and protocols may include, but not be limited to, indoor and outdoor face covering requirements, weekly and/or periodic COVID-19 testing, exclusion from the workplace upon the recommendation of health care professionals due to an outbreak or cluster of the COVID-19 virus. Alternative COVID-19 health and safety policies and protocols for Employee as a condition of granting this Waiver Request may be revised by NSHE and its officials from time to time and as necessary to respond to changing COVID-19 data and recommendations by local, state, and federal government entities.
4. NSHE and its officials may require the information in this Waiver Request to be periodically updated.
5. Failure to provide all required information in this Waiver Request may result in it being denied.

I, _____, hereby certify and request that I be exempt from the Employee COVID-19 Vaccine Requirement because receiving a COVID-19 vaccine series will result in one or more contraindication(s) due to a permanent or temporary medical condition. I further certify and affirm that the information contained in this Waiver Request is being submitted in good faith and is true and correct to the best of my belief and knowledge.

Employee's Signature

Date

SECTION 3: MEDICAL CONDITION CERTIFICATION (To be completed by Health Care Provider)		
Health Care Provider Name:	Business Address:	Telephone Number(s): Office/Work: (____)_____ Home/Cell: (____)_____
State Licensed:	License Number:	Office/ Work Email Address:

SECTION 3: MEDICAL CONDITION CERTIFICATION (CONTINUED)

[illegible]

I, _____, hereby certify that I am a licensed physician, nurse practitioner, or physician assistant in good standing and I have examined and/or I am familiar with the above-named Employee's medical history and condition. In my professional judgment and opinion, the Employee should be exempted and granted a waiver from the Employee COVID-19 Vaccine Requirement due to a contraindication(s) that would result in harm if the Employee were administered a COVID-19 vaccine series.

Health Care Provider's Signature

Date

-OFFICIAL USE ONLY-

SECTION 4: WAIVER REQUEST REVIEW (To be completed by OFFICE OF HUMAN RESOURCES)

<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Insufficient Information	Date(s) Initial Review: _____ Review Committee: _____	Human Resources Official Name: _____ Title: _____
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HEALTH AND SAFETY CONDITIONS OF APPROVAL

As a condition of approval, Employee must abide by the following COVID-19 health and safety measures:

Section 12.15 Religious Belief Waiver Request



**EMPLOYEE COVID-19 VACCINE REQUIREMENT
RELIGIOUS BELIEF WAIVER REQUEST AND CERTIFICATION**

CONFIDENTIAL

Board of Regents of the Nevada System of Higher Education

Instructions for completing this Waiver Request.

1. **Section 1:** To be completed by Employee: Employee and Institution Information.
2. **Section 2:** To be completed by Employee: Employee Certification.
3. **Section 3:** To be completed by Employee: Statement of Religious Belief.
4. **Section 4:** To be completed by Office of Human Resources (**Official Use Only**).

SECTION 1: EMPLOYEE AND INSTITUTION INFORMATION (To be completed by EMPLOYEE)

Employee Name:	Address:	Telephone Number(s): Office/Work: (____)_____ Home/Cell: (____)_____
NSHE Institution:	Office/Work Location:	Office/Work Email Address:

SECTION 2: EMPLOYEE CERTIFICATION (To be completed by EMPLOYEE)

Employee acknowledges, consents, and agrees to the following:

1. I understand the serious risk of harm, including illness, permanent disability, and death, a COVID-19 vaccine prevents to myself and others in the workplace and community with whom I may come into contact.
2. I have had the opportunity to discuss the risks and benefits of receiving a COVID-19 vaccine with a qualified health care professional.
3. If this Waiver Request is granted, Employee may be required to comply with alternative policies and protocols as determined by NSHE and its officials to maintain the health and safety of Employee and all other individuals from COVID-19. Alternative policies and protocols may include, but not be limited to, indoor and outdoor face covering requirements, weekly and/or periodic COVID-19 testing, exclusion from the workplace upon the recommendation of health care professionals due to an outbreak or cluster of the COVID-19 virus. Alternative COVID-19 health and safety policies and protocols for Employee as a condition of granting this Waiver Request may be revised by NSHE and its officials from time to time and as necessary to respond to changing COVID-19 data and recommendations by local, state, and federal government entities.
4. NSHE and its officials may require the information in this Waiver Request to be periodically updated.
5. Failure to provide all required information in this Waiver Request may result in it being denied.

I, _____, hereby certify and request that I be exempt from the Employee COVID-19 Vaccine Requirement because receiving a COVID-19 vaccine series will violate my sincerely held religious belief(s). I further certify and affirm that the information contained in this Waiver Request is being submitted in good faith and is true and correct to the best of my belief and knowledge.

Employee's Signature

Date

SECTION 3: STATEMENT OF RELIGIOUS BELIEF (To be completed by EMPLOYEE)

Employee may attach additional pages to the Waiver Request.

-OFFICIAL USE ONLY-**SECTION 4: WAIVER REQUEST REVIEW (To be completed by OFFICE OF HUMAN RESOURCES)**☐ Approved☐ Denied☐ Insufficient Information

Date(s)

Initial Review: _____

Review Committee: _____

Human Resources Official

Name: _____

Title: _____

HEALTH AND SAFETY CONDITIONS OF APPROVAL

As a condition of approval, Employee must abide by the following COVID-19 health and safety measures:
