

BOARD OF REGENTS  
BRIEFING PAPER

Disciplinary Proceedings and Expunging of Disciplinary Records

**BACKGROUND & POLICY CONTEXT OF ISSUE:**

During the August 4, 2006, Special Board meeting, regents heard testimony on the violations of the Honor Code at University of Nevada, Las Vegas, School of Dental Medicine. At that time the Board requested that staff bring back appropriate policies for consideration on disciplinary proceedings for student misconduct and expunging student disciplinary records. Currently, the Board policy defines activities that are prohibited by both students and faculty (e.g. acts of academic dishonesty), but does not specifically address proceedings for discipline, nor does it authorize institutions to expunge student disciplinary records.

A policy proposal concerning disciplinary proceedings and expunging of student records was brought for a first hearing before the Student and Academic Affairs Committee on October 12, 2006, and November 30, 2006.

**SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

Amend Title 2, Chapter 6, Section 6.2 to provide for the training of all persons responsible for investigating and reviewing acts of student misconduct, and authorizing institutions to expunge student disciplinary records under certain circumstances. (See attached policy proposal.)

**IMPETUS (WHY NOW?):**

The proposal is brought forward at this time at the request of the Board from its August 4, 2006, Special Board meeting.

**BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

If the proposed policy is adopted it will require that that individuals involved in investigating or reviewing acts of misconduct receive training as prescribed by NSHE legal counsel to ensure that matters of student discipline are properly handled.

In addition, the policy will permit institutions to expunge student disciplinary records under certain circumstances. This policy will offer students the opportunity to remove disciplinary notes from their records.

**POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

Expunged student disciplinary records will no longer be a part of a student's active record.

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

Maintain the status quo and do not adopt policies on student disciplinary proceeding and expunging of student disciplinary records.

**COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title #\_\_\_\_\_ Chapter #\_\_\_\_\_ Section #\_\_\_\_\_
- Amends Current Board Policy: *Title 2, Chapter 6*
- Amends Current Procedures & Guidelines Manual: Chapter #\_\_\_\_\_ Section #\_\_\_\_\_
- Other: \_\_\_\_\_
- Fiscal Impact: Yes\_\_\_\_\_ No\_\_\_\_\_
- Explain: \_\_\_\_\_

**POLICY PROPOSAL**  
**TITLE 2, CHAPTER 6, SECTION 6.1 (in part)**  
Misconduct, Disciplinary Proceedings, and Expunging of Disciplinary Records

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

Section 6.1 Scope of the Chapter

6.1.1 Applicability of Procedures and Sanctions . The procedures and sanctions established in this chapter are applicable to the resolution and determination of charges against members of the community of the Nevada System of Higher Education for allegedly engaging in conduct prohibited by the Nevada System of Higher Education Code or by other applicable stated policies, procedures, rules, regulations or bylaws of the System institutions. Except as otherwise provided in this chapter, [~~the University of Nevada School of Medicine~~] ***NSHE institutions and professional schools*** may [~~also~~] establish written policies, procedures and sanctions for the discipline of its students [~~which~~] ***that*** may be used in lieu of the policies, procedures and sanctions of this chapter, ***including but not limited to the establishment of student judicial councils***, subject to the prior review by the [~~Executive Vice Chancellor &~~] Chief Counsel and to the approval of the President of the institution[~~in which the School of Medicine is based.~~] (B/R 2/05)

6.1.2 Proceedings Concurrent . Action under the procedures established by this chapter shall go forward regardless of other possible or pending administrative, civil or criminal proceedings arising out of the same or other events.

**POLICY PROPOSAL**  
**TITLE 2, CHAPTER 6, SECTION 6.2 (in part)**  
Misconduct, Disciplinary Proceedings, and Expunging of Disciplinary Records  
Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

6.2.2 ~~Prohibited Activity—System Community~~ ***Standards of Conduct***. The following conduct, being incompatible with the purposes of an academic community, is prohibited for all members of the community of the System, including but not limited to the faculty and students, shall constitute cause for discipline, and may lead to the procedures and disciplinary sanctions established in Section 6.3 of ~~the Nevada System of Higher Education Code~~ ***of this chapter***. Students [~~enrolled in the University of Nevada School of Medicine~~] are also subject to the prohibitions contained in this subsection under the procedures and disciplinary sanctions [~~which~~] ***that*** may be established by [~~the School of Medicine~~] ***the institution or professional school*** as authorized by [~~Subsection~~] ***Section*** 6.1.1 of the Nevada System of Higher Education Code. ***Specific acts of misconduct include, but are not limited to:***

- (a) Commission of any of the acts specified in Subsection 2.1.4 of the Nevada System of Higher Education Code[-];
- (b) The use of, or threat to use, force or violence against any member or guest of the System community, except when lawfully permissible[-];
- (c) Interference by force, threat or duress with the lawful freedom of movement of persons or vehicles on the premises of the System[-];
- (d) The intentional disruption or unauthorized interruption of functions of the System, including but not limited to classes, convocations, lectures, meetings, recruiting interviews and social events, on or off premises of the System[-];
- (e) Willful damage, destruction, defacement, theft or misappropriation of equipment or property belonging to, in the possession of or on premises occupied by, the System[-];
- (f) Knowing possession on any premises of the System of any firearms, explosives, dangerous chemicals or other instruments of destruction, or other dangerous weapons as defined by the laws of the State of Nevada, without the written authorization of the president of any System institution or the president's authorized agent, unless such possession reasonably relates to duly recognized System functions by appropriate members of the faculty, other employees or students[-];
- (g) Continued occupation of buildings, structures, grounds or premises belonging to, or occupied by, the System after having been ordered to leave by the president of a System institution or the president's designee[-];

- (h) Forgery, alteration, falsification or destruction of System documents or furnishing false information in documents submitted to the Nevada System of Higher Education[-];
- (i) Making an accusation which is intentionally false or is made with reckless disregard for the truth against any member of the System community by filing a complaint or charges under this Nevada System of Higher Education Code or under any applicable established grievance procedures in the System[-];
- (j) The repeated use of obscene or abusive language in a classroom or public meeting of the System where such usage is beyond the bounds of generally accepted good taste and which, if occurring in a class, is not significantly related to the teaching of the subject matter[-];
- (k) Willful incitement of persons to commit any of the acts herein prohibited[-];
- (l) Disorderly, lewd or indecent conduct occurring on System premises or at a System sponsored function on or off such premises[-];
- (m) Any act prohibited by local, state or federal law which occurs on System premises or at a System sponsored function on or off such premises[-];
- (n) The use of threats of violence against a faculty member or the faculty member's family in order to secure preferential treatment for grades, loans, employment or other service or privilege accorded by the System[-];
- (o) Any act of unlawful discrimination based on race, creed, color, sex, age, handicap or national origin or any act of employment or educational retaliation against any person who has made a complaint about such discrimination[-]; (B/R 6/92)
- (p) Any act of sexual harassment when submission to a request or demand of a sexual nature is either an explicit or implicit term or condition of employment or of academic study or grading, or where verbal or physical conduct of a sexual nature has the effect of creating an intimidating, offensive or hostile work or educational environment[-]; (B/R 5/92)
- (q) Acts of academic dishonesty, including but not limited to cheating, plagiarism, falsifying research data or results, or assisting others to do the same[-];
- (r) Willfully destroying, damaging, tampering, altering, stealing, misappropriating, or using without permission any system, program or file of the Nevada System of Higher Education[-];
- (s) Acts of hazing. Hazing is defined as any method of initiation into or affiliation with the university or community college community, a student organization, a sports team, an academic association, or other group engaged in by an individual that intentionally or recklessly endangers another individual[-]; **and**

- (t) Any other conduct which violates applicable stated prohibitions, policies, procedures, rules, regulations or bylaws of the Board of Regents or a System institution.

**6.2.3 Disciplinary Actions.**

- (a) Individuals charged with investigating or reviewing acts of misconduct at an NSHE institution or professional school must receive training approved by NSHE legal counsel.*
- (b) Any final action resulting from a disciplinary proceeding shall become part of the student's disciplinary record.*
- (c) In the absence of institutional or professional school policies and procedures authorized under Section 6.1.1, the provisions of this chapter apply to the investigation and resolution of charges of student misconduct.*

*RENUMBER EXISTING SECTIONS 6.2.3 AND 6.2.4 AS 6.2.4 AND 6.2.5, RESPECTIVELY.*

**POLICY PROPOSAL**  
**TITLE 2, CHAPTER 6, SECTION 6.3 (in part)**  
Misconduct, Disciplinary Proceedings, and Expunging of Disciplinary Records  
Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 6.3 Disciplinary Sanctions

The following sanctions are applicable to members of the community of the Nevada System of Higher Education for conduct prohibited by Section 6.2 of the Nevada System of Higher Education Code . Depending on the seriousness of the misconduct, these sanctions may be imposed in any order.

- 6.3.1 Warning . Notice, oral or written, that continuation or repetition of prohibited conduct may be the cause for more severe disciplinary action.
- 6.3.2 Reprimand . A formal censure or severe reproof administered in writing to a person engaging in prohibited conduct.
- 6.3.3 Restitution . The requirement to reimburse the legal owners for a loss due to defacement, damage, fraud, theft or misappropriation of property. The failure to make restitution shall be the cause for more severe disciplinary action.
- 6.3.4 Probation . Probation is applicable to students only. It consists of a trial period not exceeding one year in which the conduct of the student will be evaluated in terms of whether any prohibited acts are committed. Probation may include exclusion from participation in privileged or extracurricular activities of the System. The person placed on probation shall be notified, in writing that the commission of prohibited acts will lead to more severe disciplinary sanctions. The official transcript of the student on probation may be marked "DISCIPLINARY PROBATION" for the period of the probation and any exclusions may also be noted. Parents or legal guardians of minor students shall be notified of the action.
- 6.3.5 Reduction in Pay . A reduction in pay may be imposed at any time during the term of an employment contract upon compliance with the procedures established in this chapter.
- 6.3.6 Suspension.
- (a) For Students Only:
1. Exclusion for a definite period of time from attending classes and from participating in other activities of the System, as set forth in a written notice to the student. The official transcript of the student shall be marked "DISCIPLINARY SUSPENSION EFFECTIVE \_\_\_\_ TO \_\_\_\_." Parents or legal guardians of minor students shall be notified of the action.
  2. A student who is *enrolled in his or her last semester before graduation or is not currently enrolled in the System and who was not registered during the previous semester*

or who graduated at the end of the previous semester may request that the notation of the disciplinary suspension be removed from the official transcript when two years have elapsed since the expiration of the student's suspension. Such request must be submitted in writing to the President *or designee in accordance with 6.3.8*. If the request is not granted, the student at yearly intervals thereafter may submit a request for removal of the notation.

(b) For Employees Only . Exclusion from assigned duties for one or more workweeks without pay, as set forth in a written notice to the employee. The phrase "workweek" has the meaning ascribed to it in Section 7(a) of the Fair Labor Standards Act; 29 U.S.C. § 207(a). (B/R 10/93)

#### 6.3.7 Expulsion or Termination .

(a) For Students Only . Termination of student registration and status for an indefinite period of time. Permission of the president shall be required for readmission. The official transcript of the student shall be marked "DISCIPLINARY EXPULSION EFFECTIVE \_\_\_\_\_." The parents or legal guardians of minor students shall be notified of the action.

*A student who is enrolled in his or her last semester before graduation or is not currently enrolled in the System and who was not registered during the previous semester or who graduated at the end of the previous semester may request that the notation of the disciplinary expulsion or termination be removed from the official transcript when four years have elapsed since the expiration of the student's expulsion or termination. Such request must be submitted in writing to the President or designee in accordance with 6.3.8. If the request is not granted, the student at yearly intervals thereafter may submit a request for removal of the notation.*

(b) For Employees Only . Termination of employment for cause. A hearing held under the procedures established in Section 6.12 and other applicable provisions of this chapter shall be required before the employment of an employee may be terminated for cause.

#### 6.3.8 Expunging of Student Disciplinary Records. *Records of disciplinary actions resulting in a student's suspension, expulsion, or termination shall be maintained for a period of at least six years from the date of the disciplinary action unless, pursuant to a written request, an official order to expunge a specific disciplinary record and remove from the student's transcript is issued by the President or designee as prescribed in 6.3.6 and 6.3.7.*

*A student may request that his or her disciplinary record be expunged and any such notation be removed from the student's transcript during the student's last semester before graduation or any time following graduation. The burden demonstrating reasonable cause for considering the expunging of a disciplinary record lies with the student. In considering such requests, the institution may consider the:*

*(a) Stated reason for request and circumstances surrounding request;*

*(b) Date and seriousness of the violation;*

*(c) Student's behavior and disciplinary record since the violation, including successful completion of any imposed sanctions;*

*(d) The impact, if any, on the public that failure to give such notice may cause; and*

*(e) Consequences of denying request.*

*The grant or denial of a request to expunge a student's disciplinary record shall rest solely within the discretion of the institution, and the enumeration of the foregoing factors shall not in any way imply a duty on the institution to grant such a request by means of a balancing or other test. If a request is not granted, the student at yearly intervals thereafter may request that his or her disciplinary record be expunged. The denial of a request to expunge is not appealable.*

*RENUMBER EXISTING SECTION 6.3.8 AS SECTION 6.3.9.*

## POLICY PROPOSAL

### TITLE 2, CHAPTER 6, SECTION 6.8 (in part)

#### Misconduct, Disciplinary Proceedings, and Expunging of Disciplinary Records

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- 6.8.3 Types of Hearings . Except as mandated by Subsections 6.3.7(b) and 6.5.2 of the Nevada System of Higher Education Code , based upon the recommendation of the administrative officer and such other considerations as may be pertinent, the president shall decide whether a disciplinary hearing shall be held:
1. By a general hearing officer, in an office hearing as provided in Section 6.10 of the Nevada System of Higher Education Code; *or*
  - ~~2. For students only, where judicial councils exist, by an institutional hearing committee as provided in Section 6.11 of the Nevada System of Higher Education Code; or~~
  - 3]2. By a special hearing officer and special hearing committee, as provided in Section 6.12 of the Nevada System of Higher Education Code.

**POLICY PROPOSAL**  
**TITLE 2, CHAPTER 6, SECTION 6.11 (in part)**  
Misconduct, Disciplinary Proceedings, and Expunging of Disciplinary Records  
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~~[Section 6.11 Institutional Hearing Committee for Students Only~~

- ~~6.11.1 Special Intended Use . This section is intended to be used as an alternate means of hearing disciplinary matters by those member institutions whose student governments may utilize judicial councils to hear student disciplinary matters.~~
- ~~6.11.2 Selection of the Committee . The president shall establish procedures for selecting an institutional hearing committee on either an ad hoc or continuing basis which shall be composed of such students and faculty as the president may determine. Judicial councils of the member institutions as may be instituted prior to the enactment of these procedures shall be considered appropriate bodies to comprise institutional hearing committees at the president's direction. The members of the committee shall serve for terms designated by the president.~~
- ~~6.11.3 Duties of the Chair of the Committee . The chair of the institutional hearing committee shall:~~
- ~~1. Make all rulings on matters relating to the conduct of the hearing, including the admission of evidence;~~
  - ~~2. Maintain order and may exclude anyone who refuses to be orderly;~~
  - ~~3. Recognize witnesses for the purpose of giving testimony;~~
  - ~~4. Make such rulings on procedure deemed appropriate so long as not inconsistent with the applicable procedures established in this chapter.~~
- ~~6.11.4 Challenges . The person charged may challenge a member of the institutional hearing committee for cause for the following reasons:~~
- ~~1. The challenged member was a participant in the event out of which the alleged prohibited conduct arose; or~~
  - ~~2. The challenged member bears a relationship to some party to the proceedings which may prejudice the charged person's ability to obtain a fair and impartial hearing and decision.~~

~~The party charged shall submit a written statement setting forth the allegations underlying the challenge to the president, with a copy to the person challenged. The president or the president's designee shall determine whether the facts present grounds for disqualification of the committee member. The decision of the president shall be final. A hearing shall not be held until the challenge is decided by the president. A member of the institutional~~

~~hearing committee may be disqualified on the committee member's own motion. Replacements for disqualified committee members shall be made under procedures established by the president.~~

~~6.11.5 Findings and Recommendations. Findings of fact and recommendations of the institutional hearing committee shall be made in writing to the president within a reasonable time after the close of the hearing with copies to the person charged and to the administrative officer. The full range of sanctions established by Section 6.3 of the Nevada System of Higher Education Code is available.]~~

*RENUMBER EXISTING SECTIONS 6.12 THROUGH 6.19 AS 6.11 THROUGH 6.18.*