

BOARD OF REGENTS BRIEFING PAPER

Agenda Item Title: Amendments to the Board of Regents Handbook, Title 4, adding a new Chapter 22 on Child Protection Policies and amending Title 4, Chapter 3, Section 46 on Background Checks.

Meeting Date: Feb. 28-Mar. 1, 2013

1. BACKGROUND & POLICY CONTEXT OF ISSUE:

The Board of Regents requested a review and report regarding the findings in the Penn State Report issued in July 2012. All institutions reviewed the Penn State Report and provided input regarding measures already in place for the protection of children and making recommendations for enhancement of these measures. A comprehensive report summarizing the findings and recommendations in the Penn State Report, as well as the findings and recommendations from all institutions was made to the Board of Regents at its October 19, 2013 meeting. The following recommended actions are derived from those recommendations.

2. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

The attached proposal sets forth amendments to the Board of Regents Handbook to adopt specific policies and requirements for the protection of children who participate in NSHE programs and activities.

Adopt a new Chapter 22, which sets forth specific policies for the protection of children mandating:

- All employees must report child abuse or neglect within 24 hours;
- Retaliation against any person who reports child abuse or neglect is prohibited;
- Children participating in NSHE programs or activities must be appropriately supervised at all times, and immediately removed from dangerous situations;
- Periodic inventory (at least annually) of all programs and activities that involve children;
- Periodic review (at least annually) of the security of programs and activities involving children, including any appropriate measures regarding students who are registered sex offenders;
- Provide for a uniform procedure for the approval of the use of facilities by outside persons or entities for programs or activities involving children;
- Require written acknowledgment by such outside persons or entities of the NSHE and any supplemental institution policy and procedure for the protection of children;
- Identify all mandatory reporters of child abuse, pursuant to the provisions of NRS 432B.220-NRS 432B.250 and provide training materials and information regarding the mandatory reporter requirements;
- Provide a copy of this policy, and any supplemental institution policy and procedure, for the protection of children to all employees and volunteers who supervise or work in programs or activities involving children;

- Publicize this policy, and any supplemental institution policy and procedure for the protection of children on the institution or System website, including the Division of Child and family Services toll-free telephone number and/or other law enforcement telephone numbers to receive reports of child abuse and neglect; and
- Conduct appropriate investigations of all incidents of alleged child abuse and neglect, and vide confidential notice or such incidents to the Chancellor and Chair of the Board of Regents.

Amend Title 4, Chapter 3, Section 46 to require institutions to determine, whether and to what extent, background reviews should be conducted of employees, volunteers and outside persons involved in programs and activities for children

Amend Title 4, Chapter 3, Section 46 to require NSHE child care workers to report convictions or illegal drug use which occurs after employment with NSHE.

3. IMPETUS (WHY NOW?):

Based upon the review of the Penn State Report, the Vice Chancellor for Legal Affairs has drafted proposed policies with input from the institutions for the Board's consideration.

4. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The Board of Regents has not previously enacted specific policies for the protection of children that apply to all employees of NSHE.
- Each of the recommendations is based upon recommendations in the Penn State Report or from the institutions.
- The proposals will enhance NSHE's efforts to provide a safe environment for children.
- The proposals set specific standards and requirements for the protection of children.
- Institutions may enact supplemental policies and procedures to implement the Board policy.
- Many NSHE employees are mandatory reporters of child abuse and neglect and therefore, NSHE should take extra steps to help our employees understand their statutory obligation for the protection of children.
- Under the current policy background checks are only performed with regard to child care workers.
- The proposal would allow institutions to do background reviews, including criminal history information, on other employees, volunteers and outside persons who supervise or work in programs for children.
- The proposal would require child care employees to report any subsequent conviction or illegal drug use.

5. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- The policies create additional administrative burdens which may be difficult for institutions to implement.
- A more general statement of policy for the protection of children would be sufficient.

- Mandatory reporters of child abuse and neglect are already subject to the statutory requirements, so there is no need for NSHE to adopt additional policy.
- NSHE has not experienced incidents involving alleged abuse or neglect of children and therefore, these policies are unnecessary.

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

- Revise and simplify the proposals to reduce the administrative requirements.
- Enact a general policy in support of child protection and simply require institutions to take steps to enhance the security of children who participate in NSHE programs or activities.

7. COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title #_ Chapter # _ Section #____
 Amends Current Board Policy: Title #4 new Chapter # 22, amends Title 4, Ch. 3, Sec. 46.
 Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
 Other:
 Fiscal Impact: Yes _____ No X
 Explain: The policy will require administrative action in order to comply, but the fiscal impact cannot be estimated with any precision.

PROPOSED REVISIONS – BOARD OF REGENTS HANDBOOK
TITLE 4, new Chapter 22, Sections 1 - 4
Child Protection Policies

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

Child Protection Policies

Section 1. Introduction

The Nevada System of Higher Education (NSHE) is committed to maintaining a supportive and safe educational environment, one which seeks to enhance the well-being of all members of the NSHE community, which includes creating a secure environment for children who may participate in NSHE programs or activities, or be present at NSHE facilities or events. The NSHE policies for the protection of children are intended for the protection all children who participate in NSHE events or activities for children or who are NSHE students.

Section 2. Public Events and Venues

Children are permitted at events and venues open to the public on NSHE property. However, NSHE reserves the right to determine whether selected events or venues are appropriate for unescorted or unsupervised children.

Section 3. Definitions.

- 1. Child.*** *A “child” is anyone under 18 years of age or, if in school, until graduation from high school, and includes children under the age of 18 years who are registered as NSHE students. The terms “child”, “minor” and “children” are used synonymously in this policy.*
- 2. Volunteer.*** *The term “volunteer” means individuals who are working at an institution pursuant to a volunteer agreement approved by the institution’s general counsel. For the purposes of this policy, the term “volunteer” does not include a parent or guardian of a child. Parents and guardians, however, should be supervised by appropriate NSHE or non-NSHE personnel during their participation in NSHE sponsored or approved programs and activities.*
- 3. Child Abuse and Neglect.*** *Child abuse and neglect is defined in accordance with the provisions of NRS 432B.020-NRS 432B.150.*
- 4. Program or Activity Involving Children.*** *“Program or activity involving children” applies to programs or activities for children that are established by NSHE institutions; and programs or activities for children sponsored by outside persons or entities which are permitted to take place at NSHE facilities. “Program or activity involving children” does*

not include events (such as concerts, plays, sporting events) or facilities (such as restaurants or stores) that are open to the public.

Section 4. Policies for the Protection of Children

1. **Reports of Child Abuse and Neglect by All NSHE Personnel.** *All NSHE employees and volunteers, who have reasonable cause to believe that child abuse and neglect has occurred at an NSHE facility or during NSHE programs or activities, must report the suspected abuse or neglect to law enforcement or a child welfare agency, as soon as possible and within 24 hours. Retaliation against any individual who makes a report of child abuse and neglect is prohibited.*
2. **Supervision and Protection of Children.** *All children who participate in NSHE programs and activities must be appropriately supervised at all times. A child must be immediately removed from a dangerous situation involving suspected child abuse or neglect or other inappropriate conduct, or which presents a threat to the child's health and safety.*
3. **Policy and Procedure.** *In order to implement these child protection policies, NSHE institutions and System Administration must:*
 - a) *Periodically (at least annually) inventory all programs or activities that involve children under the age of 18 years, such as, daycare facilities, summer camps and programs, sport camps, research studies and other activities or programs that are specifically intended to involve children under the age of 18 years;*
 - b) *Periodically review (at least annually) the security of programs and activities involving children, including considering measures that may be appropriate for the protection of students from sex offenders who are registered with the institution's police departments;*
 - c) *Provide for a uniform procedure for the approval of the use of facilities by outside persons or entities for programs or activities involving children, and requiring written acknowledgment of NSHE and institution policy and procedure for the protection of children;*
 - d) *Identify all mandatory reporters of child abuse, pursuant to the provisions of NRS 432B.220-NRS 432B.250 provide training materials regarding the mandatory reporter requirements;*
 - a) *Provide a copy of this policy, and any supplemental institution policy and procedure, for the protection of children to all employees and volunteers who supervise or work in programs or activities involving children;*
 - b) *Publicize this policy, and any supplemental institution policy and procedure for the protection of children on the institution or System website, including the Division of*

Child and family Services toll-free telephone number and/or other law enforcement telephone numbers to receive reports of child abuse and neglect;

- c) Conduct appropriate investigations of all incidents of alleged child abuse and neglect, and provide confidential notice of such incidents to the Chancellor and Chair of the Board of Regents.*

PROPOSED REVISIONS – BOARD OF REGENTS HANDBOOK
TITLE 4, Chapter 3, Section 46
Background Check Policies

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

Section 46. Background Checks [~~of Childcare Workers and Volunteers~~]

1. Required Background Check *of Childcare Workers and Volunteers*.

- a. Each institution with a childcare facility shall comply with all licensing and background check requirements established in state law. To the extent the Board of Regents policy conflicts with any state law requirements, or if applicable, any local licensing requirements, the provisions of state law or applicable local licensing requirements control.
- b. An employee who has submitted the necessary application to the state (or where permitted by law, a local licensing authority) may commence work in a childcare facility prior to completion of the background check if the employee is: 1) not left alone with children (meaning another employee is always present); or 2) has successfully completed an initial background check of criminal history by obtaining a current sheriff/police card through the County/City, or by means of an investigation of criminal history by a national criminal background check firm.
- c. Any individual, whether volunteer or part-time, not requiring a background check under state law must: 1) not be left alone with children (meaning another employee is always present) or 2) complete a criminal background check by obtaining a sheriff/police work card through the County/City, or by means of an investigation of criminal history by a national criminal background check firm.

2. Application Requirements

- a. Any prospective volunteer or employee in a childcare facility must complete an application for the consideration of employment or volunteer activities. The applicant must disclose 1) any prior convictions, whether or not expunged or based on a no contest plea, except for minor traffic/parking offenses; 2) current use of illegal drugs; 3) any arrest involving offenses related to child abuse or exploitation, child pornography, sexual assault or rape, sexual misconduct of any type involving a minor, assault, battery, murder, attempted murder or manslaughter; 4) prior employment history for the last ten years (recognizing that some individuals may not have been working for that time period); and 5) references. References and employment history must be verified prior to commencing employment or beginning volunteer activities.
- b. The facility shall evaluate all information received in the application in determining whether employment should be offered or volunteer activities permitted. Incomplete

applications for employment or volunteer activities may not be considered. Any employment offer or commencement of volunteer activities is contingent upon successful completion of a criminal background check where required under state law or any applicable local licensing requirements, as well as other restrictions noted in this section.

3. Definition of Volunteer

For the purposes of this section, the term “volunteer” does not include a parent or guardian of a child who is enrolled in the childcare facility, nor does it include students participating in an educational program. Parents, guardians and students should, however, be supervised during visits to the childcare facility.

4. Applicability to Classified Employees

This policy is not generally applicable to the employment of classified employees, as such employment is governed by state personnel rules, except that classified employees may not commence work at a childcare facility prior to completion of any background check required by state law, or any applicable local licensing requirements, unless 1) the employee has submitted an application to the state (or if permitted by law, a local licensing authority) and 2) the employee is not left alone with children (meaning another employee is always present).

5. *Subsequent convictions or illegal drug use.*

Employees subject to this background check policy are required to report to his or her supervisor any convictions or illegal drug use as described in Section. 2.a above, which occurs after employment with NSHE.

Section 47. Background Reviews of NSHE and Non-NSHE Personnel in Programs or Activities Involving Children.

- 1. Institutions to Review Programs/Activities and Adopt Policy. Each institution shall review its programs and activities involving children to determine whether and to what extent background reviews should be conducted on individuals who will supervise or work in the programs or activities. The institutions may, based on the program and activity review, require background reviews and updates of reviews of employees who supervise or work in programs or activities involving children.***
- 2. Applicability. All NSHE employees and volunteers who supervise or work in programs or activities involving children may be required to undergo a background review, which may include criminal history. Outside persons (non-NSHE personnel), who request permission to use NSHE facilities for programs or activities involving children, may also be required to undergo a background review, including criminal history. This policy does not apply to individuals who are present at NSHE facilities solely to attend public events or to use facilities that are open to the public.***

- 3. Payment for Cost. Outside persons (non-NSHE personnel) may be required to pay for the cost of the background review.*