BOARD OF REGENTS
BRIEFING PAPER

Agenda Item Title: Proposed Amendments to the Board of Regents Code, Title 2 to Adopt a Model Code of Student Conduct and related Amendments to Title 4.

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

1. BACKGROUND & POLICY CONTEXT OF ISSUE:

As part of its review of the Board of Regents Code, the Code Review Task Force has recommended that a separate Model Code of Student Conduct should be adopted for use by those institutions which have not adopted their own Student Conduct Code. Under current policy, student and employee misconduct matters follow the same procedures set forth in Chapter 6 of the Code.

2. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

The Board of Regents is requested to approve the attached proposed Model Student Conduct Code as a new Title 2, Chapter 10. Also attached are necessary amendments to Title 2, Chapter 6 to remove references to students from that chapter, and a proposed amendment to the manner of giving notice. Amendments to Title 4, Chs.1, 8, and 20 are included to conform appropriate references to the new Title 2, Chapter 10.

3. IMPETUS (WHY NOW?):

The Code Review Task Force has finished its work with regard to the proposed Model Code of Student Conduct and prepared the attached proposal for the Board's consideration.

4. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The Board of Regents Code in Title 2, Chapter 6 allows institutions to develop their own student conduct codes.
- The larger institutions (UNR, UNLV, CSN) have adopted their own student conduct codes.
- The proposed model Code of Student Conduct would be used by all other institutions.
- Title 2, Chapter 6 combines prohibitions and penalties for employee and students.
- This often makes the substantive and procedural requirements difficult to interpret and apply in matters involving students.
- The resolution of matters under the current Code is limited to certain penalties (e.g., suspension, expulsion) and does not allow additional resolutions more suited to a student's situation.
- The proposal provides for additional resolutions of disciplinary matters including informal resolution, temporary loss of privileges and other educational sanctions.

- The proposal preserves existing prohibitions and due process.
- Separation of student and employee disciplinary matters into separate chapters will make both processes easier to understand and follow for those institutions that do have their own student conduct code.
- The notice provision of Title 2, Ch. 6, Sec. 6.9.3.b should be changed to allow service by first class mail and electronic (if an e-mail address is available), or by hand-delivery.

5. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- The current policy and the procedure Chapter 6 are adequate and institutions may adopt their own student conduct codes.
- There is no need for a separate code of student conduct.

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

- Do not adopt a separate code of student conduct.

7. COMPLIANCE WITH BOARD POLICY:

❑ Consistent With Current Board Policy: Title #_ Chapter # _ Section #____
X Amends Current Board Policy: Title # 2 , Ch. 6 , Sec. _____, and adds a new Chapter 10, makes conforming amendments to Title 4, Chs. 1, 8 and 20.
Current Procedures & Guidelines Manual: Chapter #____ Section #___
Other:
❑ Fiscal Impact: Yes_____ No___X__
Explain:_

TITLE 2 – Nevada System of Higher Education CODE

RULES OF CONDUCT AND PROCEDURES FOR STUDENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION

New Chapter 10, and related revisions to Chapter 6 and other Handbook sections

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

TITLE 2 – Nevada System of Higher Education CODE

CHAPTER 10

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TITLE 2 - Nevada System of Higher Education CODE
CHAPTER 10
RULES OF CONDUCT AND PROCEDURES FOR
STUDENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION

Section 10.1 Scope of the Chapter

10.1.1 Applicability of Procedures and Sanctions. The procedures and sanctions established in this chapter are applicable to the resolution and determination of charges against students of the Nevada System of Higher Education for allegedly engaging in conduct prohibited by the Nevada System of Higher Education rules of conduct or by other applicable stated policies, procedures, rules, regulations or bylaws of the System institutions. Except as otherwise provided in this chapter, the System institutions and professional schools may establish written policies, procedures and sanctions for the discipline of its students 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 institution's general counsel and to the approval of the president of the institution.

10.1.2 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.

10.1.3 Student defined. The term "student" means any person who is or was enrolled in courses, either full-time or part-time, including correspondence study, electronic means, Study Abroad, or auditing, or courses offered through any institution satellite campuses or auxiliary means. Students are subject to disciplinary action for conduct that occurs during any period under this Chapter's authority and jurisdiction as defined above. Students who leave the institution before a conduct matter is resolved may be prohibited from future enrollment until such time as the matter is resolved. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the institution are considered "students". This includes individuals who have applied for admission to the institution or have been notified of their acceptance for admission

10.1.4 Rules of Conduct. The term, "rules of conduct" means the rules established in Section 10.2 of this chapter and includes any rules incorporated by reference in that Section.

10.1.5 System. The term, "System," means the Nevada System of Higher Education.

10.1.6 Charged student. The term, "charged student," means the student alleged to have violated the rules of conduct.

Section 10.2 Cause

10.2.1 Prohibited Conduct. The following conduct is prohibited

(a) Acts of dishonesty, including but not limited to the following:

(1) Cheating, plagiarism, fraudulently obtaining grades, falsifying research data or results, assisting others to do the same, or other forms of academic or research dishonesty;

(2) Furnishing false information to any institution or System official, faculty member, or office;

(3) Forgery, alteration, misuse, theft, or using without permission, any institutional document, or record.

(b) Disorderly, lewd or indecent conduct, including the disruption, obstruction, or unauthorized interruption of teaching, convocations, recruiting interviews, social events, research, meetings, business and administration, disciplinary proceedings, or other institutional or System activities, including public service functions and outreach activities on or off campus, or other activities when the conduct occurs on institutional premises.

(c) Conduct that endangers the health or safety of any member or guest of the System community.

(d) Physical abuse, verbal abuse, threats, intimidation, coercion, and/or conduct that threatens or endangers the health or safety of any person.

(e) Interference by force, threat or duress with the lawful freedom of movement of persons or vehicles on institutional premise.

(f) Resisting or obstructing institutional or other public officials in the performance of their duties.

(g) Failure to comply with the directions of institutional officials acting in accordance with their duties and/or failure to identify oneself to these persons when requested to do so.

(h) Acts of physical force or disruptive acts which interfere with institutional activities, freedom of movement on the campuses, freedom for students to pursue their studies, freedom of speech, freedom to be heard, and freedom to pursue research of their own choosing.

(i) Failure of the student to present proper credentials, student identification card, driver's license, or parking registration, to institutional officials upon their request.

(j) Forgery, alteration, falsification or destruction of System documents or furnishing false information in documents submitted to the System.

(k) Willful damage, destruction, defacement, theft or misappropriation of equipment or property belonging to, in the possession of, or on premises occupied by the System.

(l) 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 institutional president or the president's authorized agent.

(m) Continued occupation of buildings, structures, grounds or premises belonging to or occupied by, the System after having been ordered to leave by the institution's president, the president's designee, or chancellor.

(n) False reporting of any emergency situation, including but not limited to, misuse of campus or System emergency notification equipment. Unauthorized tampering with, and/or accessing of, safety, security, or fire protection equipment or devices. Setting off a fire alarm for reasons other than actual fire or emergency, involvement in setting or causing any unauthorized fire in or on institution property.

(o) The unauthorized possession, loan, modification, or distribution of keys, pass cards or institutional identification cards. Unauthorized or unlawful entry or access to institutional or System facilities, including buildings and grounds. The reproduction, manufacture or duplication of any key, pass card, institutional or System identification card or unlocking devise for use on institution or System facilities or locks without proper authorization.

(p) Abuse, unauthorized use, or theft of institutional or System computer facilities and resources, including but not limited to:

> ***(1) unauthorized entry into or transfer of, a file to use, read, or change the contents or for any other purpose; and/or a violation of copyright laws;***
> ***(2) use of another individual's identification and/or password;***
> ***(3) interfering with the work of another student, faculty member or institution or System official, or with the normal operation of the institution or System computing System; or,***
> ***(4) violating the institution's Standards of Conduct for the Use of institution's Computers.***

(q) Willfully destroying, damaging, tampering, altering, stealing, misappropriating or using without permission any System, program or file of the System.

(r) Violation of the institution's policies and regulations governing residence in institution owned or controlled property, and access to and use of all institutional facilities, including responsibility for the conduct of guests.

(s) Use, possession, or distribution of alcoholic beverages without authorization (except as expressly permitted by System or Institutional regulations, such as the —Alcoholic Beverage Policy), or public intoxication. Alcoholic beverages may not, in any circumstances, be used by, possessed by, or provided to, any person under twenty-one years of age.

(t) Use, possession, manufacturing or distribution of marijuana, heroin, narcotics, or other controlled substances, use or possession of any illegal and/or unauthorized drugs, prescription drugs, and drug paraphernalia or being under the influence of illegal drugs except as expressly permitted by law.

(u) Contempt of student disciplinary proceedings including impairing or interrupting any proceeding or providing false information to institution or System officials and student hearing board members during the course of the conduct resolution process. Failure to comply with the terms of any sanction imposed in accordance with the rules of conduct.

(v) The repeated use of obscene or abusive language in a classroom or public meeting of the System and which, if occurring in a class is not significantly related to the teaching of the subject matter.

(w) The use of threats or 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.

(x) Any act of unlawful discrimination based on race, creed, color, sex, age, sexual orientation, disability or national origin, gender identity, or genetic information, or any act of employment or educational retaliation against any person who has made a complaint about such discrimination.

(y) 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. Sexual harassment includes sexual violence.

(z) Sexual assault, which is the use of, or threat to use, force or violence of a sexual nature, defined as sexual assault, against any member or guest of the institutional community on institution-owned or institution controlled property or at any institution sponsored program.

(aa) Acts of hazing. Hazing is defined as any method of initiation into or affiliation with the university, college 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.

(bb) Intentionally making an accusation that is false or is made with reckless disregard for the truth against any member of the System community by filing a complaint or charges under the rules of conduct or under any applicable established complaint or grievance procedures in the System.

(cc) Willful incitement of individuals to commit any of the acts herein prohibited.

(dd) Any other conduct that violates applicable stated prohibitions, policies, procedures, rules, or regulations of the institution or Board of Regents.

(ee) Any act prohibited by local, state or federal law that occurs on System premises or at a System-sponsored function on or off such premises.

10.2.2 <u>Institutions may prohibit other conduct.</u> An institution may adopt policies which prohibit other conduct not included above which are approved by the President and institution's general counsel.

Section 10.3 <u>Student Conduct Officers</u>

10.3.1 <u>Appointment of Student Conduct Officer.</u> The President of an institution may appoint a student conduct officer and alternate student conduct officers to serve if the student conduct officer is unable to perform the duties of this section for any reason.

10.3.2 <u>Training of Student Conduct Officer.</u> Student conduct officers at an institution or professional school must receive training approved by the institution's legal counsel.

Section 10.4 <u>Allegations of violations of the rules of conduct.</u> Procedures unique to allegations of sexual harassment, including allegations of sexual violation, are in Section 10.4.12. The procedures for all allegations are as follows:

10.4.1 <u>Complaints.</u> Any member of the institution community may file a complaint against a student for violations of the rules of Conduct. The complaint shall be prepared in writing and filed with the President or the student conduct officer. Any complaint should be submitted as soon as possible after the incident takes place.

10.4.2 <u>Investigations.</u> The student conduct officer or designee may conduct an investigation to determine if the complaint has merit. At any time, the student conduct officer may determine that the best course of action to take is to informally resolve the complaint through mediation, conflict resolution, or an educational conference. Upon completion of the investigation, the student conduct officer will deliver a letter to the student. The letter shall state the factual allegations, the charges, the student conduct officer's proposed informal resolution process, if not completed earlier, and a copy of this chapter.

10.4.3 <u>Informal Resolution.</u> The charged student shall participate in and work with the student conduct officer or designee for an informal resolution of the complaint. At the conclusion of the successful informal resolution process, a written determination shall be signed by both the student conduct officer and charged student which may include any of the disciplinary sanctions described in this chapter. At any time prior to signing a written determination, the charged student has the right to request a hearing before a hearing board or hearing officer as the means to resolve the complaint.

10.4.4 <u>Failure to Reach Resolution.</u> If the student conduct officer and charged student do not reach an informal resolution or if the charged student requests a hearing, then the student conduct officer shall notify the charged student in writing that the matter will be addressed through a hearing before a student conduct board or a student conduct hearing officer. A time shall be set for a student conduct hearing to occur within a reasonable time from this notification, yet not more than twenty-five calendar days from the date of the decision to proceed with formal resolution of the complaint. Maximum time limits for scheduling of student conduct hearings may be extended at the discretion of the student conduct officer. Notice of the hearing may be given by electronic mail or by first class mail with the U.S. Postal Service with delivery confirmation to the last known address of the student or by personal delivery.

10.4.5 <u>Appointment of Hearing Boards or Hearing Officer.</u> The President or designee may establish one or more student conduct hearing boards or appoint individual hearing officers. A board shall be from three to five persons. Every board shall include at least one student and at least one faculty member. All complaints shall be heard by a board unless the charged student and student conduct officer agree that the complaint may be heard by a hearing officer.

10.4.6 <u>Hearings.</u> A hearing before a student conduct board or hearing officer shall be conducted under the following rules of procedure:

> *(a) In student conduct hearings involving more than one charged student, the student conduct officer, in his or her discretion, may permit the student conduct hearing concerning each charged student to be conducted either separately or jointly.*
>
> *(b) The charged student has the right to be assisted by an advisor. The advisor serves as a supporter and advisor during the conduct hearing. The charged*

student and the student conduct officer are responsible for presenting his or her own information, introducing witnesses, and answering questions throughout the hearing. When a student selects an advisor, in this process the advisor has no right to speak during the hearing except to the charged student. The advisor may be an attorney. The student conduct officer has sole discretion to allow for a delay in the hearing to allow for the scheduling conflicts of an advisor.

(c) The charged student and student conduct officer shall notify the opposing party of all witnesses and provide copies of all documents and records in writing that the party proposes to introduce as evidence at least five college working days prior to the hearing. The president shall issue subpoenas to compel the attendance of persons and the presentation of documents at all hearings established under this chapter upon the request of the person charged or of the administrative officer. Such subpoena authority shall be exercised under the authority conferred by NRS 396.323.

(d) The charged student(s) and advisors, if any, along with the student conduct officer shall be allowed to attend the entire portion of the hearing, at which information is received, excluding the time of deliberations. Admission of any other person to the student conduct hearing shall be at the discretion of the student conduct board or hearing officer.

(e) Witnesses will provide information to, and answer questions from, the student conduct board or hearing officer. The charged student and student conduct officer may suggest questions. These questions will be directed to the chairperson of the conduct board or the hearing officer, who will question the witnesses directly. The chairperson of the conduct board or the hearing officer will decide on the specific course of questioning and/or information sharing throughout the hearing.

(f) All student conduct boards, hearing officers, or student conduct officers, may accommodate concerns for personal safety, well-being, and or fears of confrontation, by the complainant, the accused, and witnesses, during the hearing or during the informal resolution process by providing the opportunity for the hearing board or student conduct officer to receive the pertinent information and conduct conversations for the resolution of the case using methods other than requiring both parties to be present in the same room at the same time. Such options include use of a visual screen, participation by videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined by the chairperson of the student conduct hearing board or hearing officer conducting the hearing.

(g) Either party may present pertinent written statements, records, or other information to the student conduct board or hearing officer. The formal rules of evidence in court shall not apply but irrelevant or unduly repetitious evidence shall be excluded.

(h) To the extent consistent with the Family Educational Rights and Privacy Act ("FERPA") the hearing, except for deliberations, shall be taped or digitally recorded. Upon request by the student, a written transcript will be provided at the student's expense. Personally identifiable information will be removed. The record shall be the property of the institution, and will be maintained with the student's conduct records by the student conduct officer.

(i) Student conduct hearings shall be conducted in private, unless the charged student requests an open hearing. An open hearing must be held consistent with subsection (f).

(j) If a charged student, with notice, does not appear at a student conduct hearing, the information in support of the complaint shall be presented, considered, and acted upon even if the charged student is not present. Failure of the student to appear is not evidence that the student was responsible for the charge of misconduct.

(k) The hearing will proceed according to the institution's schedule and will not be delayed by another process off campus.

(l) The chairperson of the student conduct board or the hearing officer decides procedural questions.

(m) The members of the student conduct board or the hearing officer deliberates in closed session after the hearing has concluded, and shall determine whether or not the charged student has violated each section of the rules of conduct that the student is charged with having violated. This determination is made through consensus when possible, and if not possible, then by a simple majority vote of the board members.

(n) The student conduct board or hearing officer's determination shall be made on the basis of whether it is more likely than not that the charged student violated the rules of conduct. An expulsion requires a finding of substantial evidence of wrong doing.

(o) If the charged student is found not to have violated the rules of conduct, then the hearing is concluded. If the charged student is found to have violated the rules of conduct, then the student conduct board or hearing officer will discuss possible sanctions for the student after being informed of the student's disciplinary record with the institution.

(p) The student conduct board chairperson or the hearing officer will provide the board's decisions on the violation and, if appropriate, for sanctions to the student conduct officer and to the student. This written decision will be served within seven calendar days of the conclusion of the hearing. The written

decision may be served by electronic mail or by first class mail with the U.S. Postal Service with delivery confirmation to the last known address of the student or by personal delivery. Service is complete upon sending of the email or depositing with the U.S. Postal Service.

10.4.7 <u>Appeals.</u> A student who is aggrieved by the decision of a student conduct hearing board or hearing officer may appeal to a vice president designated by the President or the President may decide to hear the appeal. The appeals shall be in writing and delivered to the student conduct officer within fourteen calendar days of the student's receipt of the decision. The student's appeal must include all written arguments in support of the appeal.

(a) Grounds for an appeal are:
(1) Deviations from procedures set forth which results in significant prejudice.
(2) The decision reached regarding the charged student was not based on a decision that it was more likely than not that the charged student violated the rules of conduct.
(3) The sanction(s) imposed were not appropriate for the violation of the rules of conduct which the student was found to have committed.

(b) The student conduct officer shall review the appeal and direct it, along with the recording of the hearing, any written evidence and arguments, and decision to the vice president designated by the President to hear the appeal within fourteen calendar days of receiving the appeal. With the record, the student conduct officer shall file written arguments in opposition to the appeal.

(c) The designated vice president shall review the recording of the hearing and the complaint, and decision, along with any information and evidence that was part of the decision-making of the conduct case, and will decide whether or not the appeal should be upheld. The designated vice president may uphold the decision, may refer the case back to the original board or hearing officer or may order a new hearing before a new board or hearing officer.

(d) The decision of the vice president shall be in writing and served upon the student and student conduct officer within 30 calendar days of the receipt of the decision and record of the hearing by the vice president. The vice president may extend the time limit of this section by written notice to the parties.

(e) Any sanction against the student shall not take effect until any appeal is concluded.

(f) The student conduct officer may suspend any time limits contained in this chapter during winter or summer breaks.

10.4.8 <u>Sanctions and expunging the record.</u> The student conduct officer or designee will be responsible for monitoring the student in successfully carrying out the sanctions imposed as the result of a hearing or the final determination of the informal resolution

process. Unless the student conduct officer otherwise states in writing, any final action resulting from a disciplinary hearing or the informal resolution process shall become part of the student's disciplinary record. Other than institutional expulsion or withholding of a degree, disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's disciplinary record. Upon graduation, the student's disciplinary record may be expunged of disciplinary actions other than residence hall expulsion, institution suspension, institution expulsion, or withholding of a degree, upon application to the student conduct officer and approval by the president. 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.

10.4.9 <u>Sanctions.</u> The following are the disciplinary sanctions that may be imposed on a student found to have violated the rules of Conduct. More than one sanction may be imposed.

(a) Warning. A notice, oral or written, that the student has violated the rules of Conduct.

(b) Reprimand. A written reprimand for violation of specified regulations.

(c) Restitution. Compensation for loss, damage, theft or misappropriation of property, or injuries sustained in an incident of student misconduct. This may take the form of appropriate service, monetary, or material replacement or combination of these.

(d) Probation. Probation consists of a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to have violated any institutional regulation(s) during the probationary period.

(e) Loss of Privileges. Denial of specified privileges for a designated period of time. This may include denying the student access to any campus, site, or building while permitting the student to enroll in off-campus classes such as internet or correspondence classes.

(f). Discretionary and Educational Sanctions. Participation in specific educational programs, such as alcohol or other drug educational intervention conferences, assessments, educational activities, including on-line instructional workshops, and work assignments or service to the institution or the community, and other related discretionary assignments

(g) Residence Hall Suspension. Separation of the student from the residence halls for a period of time, after which the student is eligible to return. The minimum period of suspension is one semester and the maximum period is two semesters. Conditions for readmission may be specified in the suspension.

(h) Residence Hall Permanent License Cancellation. Permanent separation of the student from the residence halls.

(i) Withholding of a degree. Prior to the awarding of a degree, the institution may withhold a degree from a student.

(j) Institutional Suspension. 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 ___. 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 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 his designee. If the request is not granted, the student at yearly intervals thereafter may submit a request for removal of the notation.

(k) Deferred institutional Suspension. Deferred separation of the student from the institution until the close of the current semester or some other time frame for review of student progress in addressing the conduct matter.

(l) Institutional Expulsion. 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 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. If the request is not granted, the student at yearly intervals thereafter may submit a request for removal of the notation.

10.4.10 <u>Emergency Removal.</u> The president, or the student conduct officer, may impose an immediate emergency removal (hereafter, "removal") prior to the resolution of a charge of violation of the rules of conduct on the charged student. This removal includes the immediate exclusion from the institution and all of the institution's campuses, sites, locations, and property of a student for an interim period whenever the president determines that this is required to:

(a) insure the safety and well-being of members of the institution's community,

(b) protect institution property, or

(c) if the student poses an ongoing threat of disruption of, or interference with, the normal operations of the institution.

(d) protect any student from sexual harassment or retaliation for the report of sexual harassment.

10.4.11 <u>Conditions of Emergency Removal and Hearing.</u> When an emergency removal is imposed, the charged student shall be denied access to the institution, including classes and all other institutional activities or privileges for which the student might otherwise be eligible, as the President or the student conduct officer may determine to be appropriate. During the time of the removal from the institution, the student may not come onto institutional property for any reason other than meeting with the appropriate official(s) regarding resolution of the emergency removal and the student conduct violation. The student conduct officer may permit the student to participate in distance learning classes that do not include entering onto institutional property and provide adequate protections to prevent any of the conditions of (a), (b), (c) or (d), above, from occurring. Any student so removed shall be afforded an opportunity to a hearing on the emergency removal no later than fourteen calendar days following the removal unless the student agrees to delay the hearing to a later time. A hearing officer shall hold the hearing under the hearing procedures of the rules of conduct where those may be applicable. The student conduct hearing officer shall make a recommendation to the President. The president's decision upon the hearing officer's recommendation shall be final. The removal does not replace the regular disciplinary process, which shall proceed under this chapter.

10.4.12 <u>Procedures Available when Sexual Harassment is alleged.</u> The following additional procedures are available in proceedings alleging sexual harassment:

(a) An alleged victim of sexual harassment shall have the opportunity to select an independent advisor for assistance, support and advice. The alleged victim shall be advised at the beginning of the complaint process that he or she may select an independent advisor and it shall become the choice of the alleged victim to utilize or not utilize the independent advisor. The independent advisor may be brought into the process at any time at the request of the alleged victim. The institutional affirmative action officer or the student conduct officer shall advise the alleged victim of this right.

The means and manner by which an independent advisor shall be made available shall be determined by each institution or unit.
(b) the complainant may choose to not permit the matter to be resolved by the informal resolution process or may terminate the informal resolution process at any time prior to a written determination being signed. If sexual assault is alleged, the informal resolution process may not be used;
(c) the complainant must agree to the charge being heard by a hearing officer if the student conduct officer and student agree;
(d) the complainant must be given the opportunity to participate in any pre hearing procedures;
(e) if a hearing involving more than one charged student, the hearing officer or hearing board may require a charged student to be absent from any testimony that is not relevant to that charged student;
(f) the complainant must receive a list of all witnesses at the same time it is received by the student conduct officer and charged student;
(g) the complainant must be permitted an advisor during the hearing who shall have the same duties as the advisor for the charged student;
(h) the complainant may present witnesses and other evidence at the hearing;
(i) the complainant shall be served a copy of the decision of the student conduct hearing board or hearing officer and of the vice president, if an appeal is filed, except for the discipline imposed upon the student unless the discipline directly relates to the complainant.
(j) if the complainant is aggrieved by the decision of the student conduct hearing board or hearing officer, the complainant has the right to appeal the decision to the appropriate vice president in the same manner as the student;
(k) in a complaint alleging sexual violence or non-forcible sex offense, the complete decision of the student conduct hearing board or officer and the decision on appeal shall be given to the complainant and may be released to anyone upon request.

PROPOSED REVISIONS – BOARD OF REGENTS CODE

TITLE 2, Chapter 6

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

CHAPTER 6

RULES AND DISCIPLINARY PROCEDURES FOR ~~MEMBERS OF THE UNIVERSITY COMMUNITY~~, FACULTY EXCEPT DRI, AND DEGREE REVOCATIONS

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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~~ **faculty and for degree revocations** 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 NSHE institutions and professional schools may establish written policies, procedures and sanctions for the discipline of its students 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 Chief Counsel and to the approval of the president of the institution. (B/R 1/07)]~~

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.

Section 6.2 Cause

6.2.1 **Prohibited Activity**. The following conduct, being incompatible with the purposes of an academic community, is prohibited for all members of the faculty of the System, 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.

(a) Failure to perform the duties for which the faculty member is employed.

(b) Failure to maintain a required level of performance as provided in Section 5.12 of the Nevada System of Higher Education Code.

(c) Incompetence or inefficiency in performing the duties for which the faculty member is employed.

(d) Insubordination.

(e) Falsification of employment applications or documents submitted to the System, its member institutions or its special units, or making other false or fraudulent representations in securing employment.

(f) Dishonesty.

(g) Conviction of any criminal act involving moral turpitude.

(h) Being under the influence of intoxicants, or, without a valid medical excuse, being under the influence of controlled substances as defined in the Nevada Revised Statutes, while on duty, due consideration being given to NRS 284.379.

(i) Unauthorized absence from duty or abuse of leave privileges.

(j) Personal or professional conduct which shows that the faculty member is unfit to remain in the faculty member's employment position or which has an ascertainable harmful or adverse effect on the efficiency of the faculty member's administrative unit.

~~[**6.2.2 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 this chapter. Students are also subject to the prohibitions contained in this subsection under the procedures and disciplinary sanctions that may be established by the institution or professional school as authorized by Section 6.1.1 of the Nevada System of Higher Education Code. Specific acts of misconduct include, but are not limited to:]~~

([~~a~~]k) Commission of any of the acts specified in Subsection 2.1.4 of the Nevada System of Higher Education Code;

([~~b~~]l) The use of, or threat to use, force or violence against any member or guest of the System community, except when lawfully permissible;

([~~c~~]m) Interference by force, threat or duress with the lawful freedom of movement of persons or vehicles on the premises of the System;

([~~d~~]n) 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~~]o) 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~~]p) 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~~]q) 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~~]r) Forgery, alteration, falsification or destruction of System documents or furnishing false information in documents submitted to the Nevada System of Higher Education;

([~~i~~]s) 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~~]t) 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~~]u) Disorderly, lewd or indecent conduct occurring on System premises or at a System sponsored function on or off such premises;

([~~n~~]v) 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~~]w) 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;

([~~p~~]x) 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;

([~~q~~]y) Acts of academic dishonesty, including but not limited to cheating, plagiarism, falsifying research data or results, or assisting others to do the same;

([~~r~~]z) Willfully destroying, damaging, tampering, altering, stealing, misappropriating, or using without permission any system, program or file of the Nevada System of Higher Education;

([~~s~~]aa) 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~~]bb) Any other conduct which violates applicable stated prohibitions, policies, procedures, rules, regulations or bylaws of the Board of Regents or a System institution.

([~~m~~]cc) 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;

([~~k~~]u) Willful incitement of persons to commit any of the acts herein prohibited.

(B/R 1/07)

~~[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.]~~

(B/R 1/07)

6.2.~~4~~3 Mental or Physical Incapacity. The inability or incapacity to perform the duties for which the faculty member is employed due to mental or physical reasons may lead to suspension or termination of employment as provided in Subsections 6.3.6(b) and 6.3.7(b) of the Nevada System of Higher Education Code, due consideration being given to the provisions of NRS 284.379.

(B/R 1/07)

6.2.~~5~~4 Sexual Harassment.

(a) The Board of Regents deems the sexual harassment of students and employees to be unacceptable and prohibited.

1. Because of the particularly offensive and degrading nature of sexual harassment, the danger of academic or employment retaliation for accusations of sexual harassment and the difficult and tense academic or employment environment which can result while allegations of sexual harassment are investigated or heard, it is the policy of the Board of Regents that, pending the completion of an investigation and/or disciplinary hearing into the allegations of sexual harassment, and only to the extent deemed necessary by the facts of each case, contacts between the complainant(s) and the person accused of sexual harassment shall be kept to a minimum or eliminated altogether by physical separation, assignment to other duties or classes or placement on administrative leave.

2. Such action shall be deemed to be without prejudice to any person involved or determination of the truth or falsity of the allegations.

3. Any such action shall be taken or maintained in such manner as to afford the least possible disruption to the day-to-day activities of the institution but the ease of reassigning students or employee subordinates in place of instructors or supervisors shall not be a factor in taking such action.

(B/R 3/93)

(b) An alleged victim of sexual harassment shall have the opportunity to select an independent advisor for assistance, support and advice. The alleged victim shall be advised at the beginning of the complaint process that he or she may select an independent advisor and it shall become the choice of the alleged victim to utilize or not utilize the independent advisor. The independent advisor may be brought into the process at any time at the request of the alleged victim. The institutional affirmative action officer or the administrative officer shall advise the alleged victim of this right. The means and manner by which an independent advisor shall be made available shall be determined by each institution or unit. (B/R 3/93)

(B/R 1/07)

Section 6.3 Disciplinary Sanctions

The following sanctions are applicable to [~~members of the community~~] ***faculty*** 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~~4 **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~~]5 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 his 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 the Fair Labor Standards Act; 29 U.S.C. § 207(a).

(B/R 4/08)

6.3.[~~7~~]6 ~~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 6.9 and other applicable provisions of this chapter shall be required before the employment of an employee may be terminated for cause.

(B/R 4/08)

~~**[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. (B/R 1/07)]~~

6.3.~~8~~7 Revocation of a Degree

(a) The Board and its institutions reserve the right to withdraw academic degrees in the event that a case is brought after graduation for material academic misconduct that impacts the reputation of the institution, including misrepresentation of academic credentials or material falsification in an application, if the act occurred before graduation and during the time the student applied to, or was enrolled at an NSHE institution, but a complaint had not been filed prior to graduation. Institutions who are investigating acts of misconduct prior to a student graduating may postpone the awarding of a degree pending the outcome of the investigation and imposing of appropriate disciplinary sanctions.

(b) Upon receipt of a complaint that a degree was conferred to a student accused of academic misconduct under subsection (a), the institution shall commence an investigation under Section 6.8. The purpose of the investigation is for the administrative officer to make a recommendation to the President whether the charges are warranted, and if so, whether the violation is of such severity to warrant revocation of degree.

(c) If the President determines that the charges are warranted and the violation, if proven, is of sufficient severity to warrant revocation of degree, then a special hearing committee and special hearing officer shall be appointed in accordance with Section 6.11.

(d) The charged party shall receive all due process required by this Chapter in the investigation and hearing.

(e) The President may consider alternatives to revocation of degree, depending on the severity of the offense.

(f) After receiving the recommendation of the special hearing officer and special hearing committee, if it is determined that revocation of the degree is warranted, the President may revoke the degree. The charged party shall have an opportunity to appeal to the Board of Regents based on the procedure and grounds for appeal specified in Section 6.13.

(g) On appeal, the Board may take such action as specified in Section 6.13.2(d).

(h) The fact of degree revocation will appear permanently on the student's transcript.

(i) Events of misconduct discovered more than 7 years following graduation from an NSHE institution are not subject to the provisions of this section.

(j) NSHE institutions shall appropriately inform students of the Board's degree revocation policy.

(B/R 4/08)

Section 6.4 Authority of the President

6.4.1 Exercise of Authority. The president shall exercise authority in disciplinary actions in accordance with the procedures established in this chapter and other laws and regulations as are applicable.

6.4.2 President Has Final Decision-Making Authority. All determinations and findings made within the System institutions are in the nature of recommendations to the president who shall have the final decision making authority, except as otherwise provided in the Nevada System of Higher Education Code.

6.4.3 **Designation of Hearing Officers.** The designation of hearing officers and decisions on the challenges of any hearing officer for cause, as provided in this chapter, shall be made by the president or the president's designee.

6.4.4 **Delegation of Authority.** The functions of the president, as prescribed in this chapter, may be delegated by the president to individual designees who are members of the staff of the System institution and such designees shall exercise these functions in the president's name. All references in the procedures established by this chapter to the president include such designees.

Section 6.5 Administrative Leave (B/R 5/92)

6.5.1 **President to Order Administrative Leave.** The president of each System institution may order any **faculty** member ~~of the System community~~ to be placed on administrative leave for the interim period pending a disciplinary hearing whenever the president determines that administrative leave is required in order: (B/R 5/92)

(a) To protect life, limb or property;

(b) To ensure the maintenance of order; or

(c) To remove a person from the University of Nevada System community when an act of sexual harassment has been alleged against such person and the accuser or the accused person cannot be assigned to other duties or classes or placed elsewhere in the System institution apart from each other pending the completion of an investigation and/or disciplinary hearing into the allegation. (B/R 5/92)

6.5.2 **Hearing.** Any person placed on such administrative leave shall be afforded an opportunity to a hearing with respect to the issue of the leave. The hearing on the administrative leave will be held no later than 10 college working days of the leave, unless the person placed on leave agrees to delay the hearing to a later time. The hearing shall be held under the hearing procedures established in Section 6.9 of the Nevada System of Higher Education Code, so far as can be made applicable, and by a general hearing officer as established in Section 6.10 of the Nevada System of Higher Education Code. The president's decision upon the hearing officer's recommendation shall be final. The issue shall be limited to whether the continued administrative leave of the individual involved pending the outcome of a disciplinary hearing is warranted. (B/R 5/92)

6.5.3 **Expulsion from Premises.** Administrative leave under this section will be coupled with a withdrawal of consent by the System for the individual involved to remain on System premises whenever there is reasonable cause to believe that life, limb, property or the maintenance of order are in danger. (B/R 5/92)

6.5.4 **Administrative Officer's Duties.** The administrative officer, as established in Section 6.7 of the Code, shall be responsible for presenting evidence that the administrative leave, withdrawal of consent to remain on System premises, or both, should be continued.
(B/R 5/92)

6.5.5 **Administrative Leave With Pay.** Administrative leave under this section shall be with pay and other benefits. (B/R 5/92)

Section 6.6 Disciplinary Sanctions [~~for Professional Employees~~]

6.6.1 **Authority of Administrators to Discipline.** Vice presidents, deans, directors and persons in equivalent positions shall have the authority to issue reprimands or warnings (as defined under 6.3.1 and 6.3.2) to faculty members and other professional employees under procedures stated in 6.6 of the NSHE Code. Procedures under 6.6 differ from procedures established in Sections 6.7 to 6.14 of the NSHE Code. Code 6.6 procedures are to be used whenever possible, as an alternative to those in 6.7 to 6.14. (B/R 06/99)

6.6.2 **Right to Notice.** Before issuing a warning or reprimand, a person proposing to issue the disciplinary sanction shall notify the person whom it is proposed to so discipline in writing of the charges involved. The notice shall also schedule a meeting between the person charged and the person proposing to issue the disciplinary sanction for the purpose of discussing the charges. At least fifteen (15) working days before issuing a warning or reprimand, the vice president or dean, director or persons in equivalent positions proposing to issue the disciplinary sanction shall notify the affected person in writing of the charges involved and the proposed action. The notice shall:

1. Include all materials and documentation to support the charges;

2. Clearly state that it activates the processes set forth in 6.6 of the NSHE Code, and also state the alternatives available under 6.6.3 to the affected person; and

3. Advise the affected person of his or her rights according to 6.6.6.

After the person proposing the disciplinary action has sent the notification, ten (10) working days must elapse before section 6.6.3 is implemented, during which time no documentation of the proposed action may be placed in the affected person's personnel file. (B/R 06/99)

6.6.3 **Choice of Response.** The person affected by the proposed disciplinary action shall have:

1. the right to mediation as outlined in 6.6.4, or through 6.6.8.

2. the right to accept the reprimand or warning or to respond, in writing to the warning or reprimand and to have that response immediately placed in his or her personnel file.

3. The right to grieve the warning or reprimand unless mediation is selected. If the affected person elects to grieve the warning or reprimand, mediation may not be used.

Choice of mediation shall delay the filing of any warning or reprimand in the affected person's file until after the mediation proceeding is concluded and a final decision rendered:

6.6.4 **Use of Mediation.** If the person affected by the proposed decision to reprimand or warn chooses to select mediation procedures outlined below, he or she must notify, in writing, the vice president or dean within ten (10) working days of receiving notification of the intent to reprimand or warn. The mediator will be selected within fifteen (15) working days following request for mediation using a procedure jointly developed by the campus administration and Faculty Senate. All materials relevant to the proposed disciplinary sanction shall be delivered to the mediator within five (5) working days of the appointment of the mediator. All parties may view all materials deposited with the mediator.

6.6.5 **Mediation.** The mediator will call a meeting of both parties to facilitate an informal resolution of the matter. Both parties must participate in good faith in the mediation procedures. The meeting will take place within fifteen (15) working days after the appointment of the mediator. The mediator shall conduct the meeting with attention to fairness and due process, and shall seek to preserve the rights of all affected parties. The mediator shall have the right to call witnesses if deemed necessary by the mediator.

6.6.6 **Rights of the Affected Person When Mediation has Been Chosen.** The person shall have:

1. the right to access all materials and documents relevant to the proposed disciplinary action at least (10) working days prior to the meeting with the mediator;

2. the right to have a colleague present, and the right to introduce materials in response to the proposed warning or reprimand; and

3. the right to appeal any decision to the president.

(B/R 6/99)

6.6.7 **Burden of Proof.** The burden of proof rests with the administrator or the person issuing the charges.

6.6.8 **Decision.** Any agreement reached by the affected person and the administrator through the mediation process shall be placed in the affected persons' personnel file. This agreement may not be appealed through any grievance process. If there is not an agreement between the parties, the mediator will submit a written report within fifteen (15) working days to the immediate supervisor of the administrator bringing the charges. A copy of the mediator's report shall also be given to the administrator bringing the charges and the affected person. The immediate supervisor must make a decision within ten (10) working days about whether the warning or reprimand will be issued. If the decision is to warn or reprimand the affected person the affected person may appeal to the president. The affected person may file a written appeal with the president within 15 working days. The written appeal shall contain the reasons, arguments and documentation supporting the appeal. The president shall reach a decision

within a reasonable time after receipt of the written appeal. The president may uphold, modify or reverse the disciplinary sanction. The president's decision shall be final and cannot be grieved. (B/R 6/99)

Section 6.7 Administrative Officer

6.7.1 Appointment of Administrative Officer. The president of each System institution shall appoint, on either an ad hoc or a continuing basis, a person who shall have the authority to perform the duties established for the administrative officer in this chapter. The president may assign either a staff member of the System institution, or alternatively, may engage the services of an attorney who has been a member of the State Bar of Nevada at least five years or who is otherwise qualified by professional experience in administrative law. The person so assigned to these duties shall serve in this assignment at the pleasure of the president.

It is the intent of the Board that this position shall not be used to create the basis for an on-campus staff attorney appointment that will report directly or indirectly to the institutional president. In order to assure an appropriate separation of responsibilities, the job description of the person appointed as administrative officer must be approved by the Executive Vice Chancellor & Chief Counsel prior to appointment. The person appointed to perform the duties of administrative officer shall not represent the System institution nor engage in the practice of law on behalf of the System institution, including, but not limited to, the rendering of legal advice or opinions.

6.7.2 Titles. Although termed the "administrative officer" for the purposes of this chapter, the person selected as administrative officer may use such local, administrative title as the president may determine.

6.7.3 Assistants. All references in this chapter to the administrative officer shall include other persons who are authorized by the president to assist the administrative officer and to act in the administrative officer's name.

6.7.4 Combined Duties. The president may combine the duties of the administrative officer with those of any other person employed by the System institution, but may not combine such administrative officer duties with those performed by hearing officers or hearing committee members under the procedures of this chapter.

(B/R 4/08)

Section 6.8 Decision to Hold Hearings

6.8.1 Complaints. Except as may be provided in Section 6.6 of the Nevada System of Higher Education Code, all complaints alleging conduct prohibited by Section 6.2 of the Nevada System of Higher Education Code or by applicable stated prohibitions, policies, procedures, rules, regulations or bylaws of the System institutions shall be filed with the administrative officer. The complaint shall be in writing, shall be signed by the complainant and shall, to the extent reasonably possible, specify the date, time, place, person or persons involved and the circumstances of the alleged prohibited conduct, including the name or names of persons who may have witnessed the alleged prohibited conduct.

6.8.2 Investigation, Informal Resolution or Recommendation for Hearing.

(a) The administrative officer shall investigate complaints with the purpose of clarifying the facts and the positions taken by the parties. The investigation shall be completed within 60 calendar days after the receipt of the complaint. (B/R 5/92)

(b) The administrative officer shall present a charging letter to the person charged who may present a written answer within 7 college working days after receipt thereof. At a minimum, the charging letter shall contain the information specified in Subsection 6.8.1 of the Nevada System of Higher Education Code. The administrative officer shall inform the person charged in writing that, although the person charged is free to make a written reply, there is no requirement or compulsion to do so.

(c) If deemed appropriate to do so, the administrative officer, with the approval of the president, may informally resolve the complaint by conciliating with the parties, by permitting the complainant to voluntarily drop the complaint or by permitting the person charged to voluntarily accept disciplinary sanctions.

(d) Within 7 college working days of the completion of the investigation, and if the complaint cannot be informally resolved, the administrative officer shall make a recommendation to the president as to whether or not the complaint should proceed to a hearing and, if a hearing is recommended, the administrative officer shall recommend the type of hearing which may be held, as specified in Subsection 6.8.3 of the Nevada System of Higher Education Code.
(B/R 5/92)

(e) A hearing shall be held whenever the president accepts the administrative officer's recommendation to that effect or does not accept a contrary recommendation from the administrative officer. The president shall decide the kind of hearing to be held, as authorized in Subsection 6.8.3 of the Nevada System of Higher Education Code. The president shall make this decision within 7 college working days after receipt of the administrative officer's recommendation. Within the above-referenced time, the president shall inform the administrative officer of the president's decision and, if deciding to hold a hearing under Section 6.9 of the Nevada System of Higher Education Code, shall also inform the faculty senate chair of the decision. If the hearing is to be held under Section 6.9 of the Nevada System of Higher Education Code on a charge or charges of sexual harassment under Subsection 6.2.2(p) of the Nevada System of Higher Education Code, the president shall also inform the president of the appropriate student government within the above-referenced time period if a student or graduate student is involved in the charge as an alleged victim.
(B/R 4/08)

(f) If it is determined by the president that the matter should not proceed to a hearing, then unless new evidence, sufficient in the opinion of the president to reopen the case, is subsequently discovered, the complaint shall be dismissed and the disciplinary procedure shall be considered closed. All documents relating to the case shall be deposited with the president's office where they shall be retained for a period of one year, after which time they shall be released to the person charged, if requested by that person, or shall be destroyed unless destroyed sooner pursuant to regulations, policies or procedures established by the System institution.

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. By a special hearing officer and special hearing committee, as provided in Section 6.11 of the Nevada System of Higher Education Code.

(B/R 4/08)

~~[6.8.4 **Notice to Parents or Legal Guardians of Minor Students.** If the proposed action against the person charged may lead, in the opinion of the administrative officer, to suspension or expulsion and the person charged is a minor, the parents or legal guardians shall be notified of the charges and of the proposed hearing at least 7 calendar days prior to the pending hearing by certified or registered mail, return receipt requested, sent to the parents' or legal guardian's last known address posted on the records of the registrar of the member institution involved.]~~

6.8[.~~5~~]4 Factors to be Considered. In making a recommendation or decision to hold a type of hearing, the administrative officer or the president, respectively, may consider as nonbinding factors the wishes of the person charged, the degree of apparent complexity of the facts or issues and the seriousness of the offense.

6.8.~~6~~5 Waiver of Hearing. The person charged may waive a hearing and accept a disciplinary sanction recommended by the administrative officer and approved by the president as provided in Subsection 6.8.2 of the Nevada System of Higher Education Code.

Section 6.9 Provisions Applicable to Hearings

6.9.1 Applicable Provisions. The provisions of this section shall be applicable to hearings held pursuant to Sections 6.9 through 6.11 of the Nevada System of Higher Education Code.

6.9.2 Hearing Arrangements. The administrative officer shall make physical and scheduling arrangements for hearings required by Sections 6.9 through 6.11 of the Nevada System of Higher Education Code.

(B/R 4/08)

6.9.3 Notice.

(a) The person charged must receive, at least 10 college working days before the hearing, written notice from the administrative officer containing:

1. The date, time and place of the hearing;

2. Specification of the misconduct charged by citing the applicable provision of the Nevada System of Higher Education Code or the applicable stated policy, prohibition, procedure, rule, regulation or bylaw of a System institution which has been alleged to have been violated;

3. Specification, to the extent reasonably possible, of the time, place, person or persons involved and the circumstances of the alleged prohibited conduct, including the name or names of persons who may have witnessed the alleged prohibited conduct;

4. Notification that the person charged may be accompanied by an advisor of the charged person's choice, and of the time within which the person charged must inform the administrative officer of the name and address of the advisor, if any, and whether the advisor is an attorney, or else forfeit the right to have an advisor present, as provided in Subsection 6.9.6 of the Nevada System of Higher Education Code; and

5. Such other information as the administrative officer may wish to include.

(b) The administrative officer shall be responsible for preparing and delivering notices required by this section. [~~Notices shall be either personally delivered to the person charged or shall be sent to the person charged by certified or registered mail, return receipt requested.~~] ***All notices or other documents shall be (1) served by 1st class mail, postage prepaid, and by email, if a current email address is available to the institution; or (2) hand delivered.*** Notice delivered by mail shall be considered delivered when sent, provided that 3 additional college working days shall be added to the time period set forth for minimum notice. A copy of the applicable disciplinary hearing procedures shall accompany each notice.

6.9.4 Evidence.

Evidence shall be admitted if it possesses reasonably probative value, materiality and relevancy. No evidence other than that received at the hearing shall be considered in the decision. Upon request, the person charged, the person's advisor, if any, and the administrative officer shall have the right to examine, at

least 5 college working days prior to the hearing during reasonable business hours, any documentary evidence to be presented at the hearing. The parties shall also have the right to present, challenge or rebut evidence and to question or cross-examine witnesses. Formal rules of evidence shall not apply, but irrelevant or unduly repetitious evidence shall be excluded.

6.9.5 Administrative Officer's Duties.
The administrative officer shall marshal and present the evidence against the person charged.

6.9.6 Advisors, Attorneys.

(a) The person charged may be accompanied by one advisor of the person's choice, who may represent and advise the person and may present the evidence on the person's behalf. The person charged must give written notice of the name and address of the advisor, and whether the advisor is an attorney, to the administrative officer no later than 5 college working days before the time set for the hearing. An advisor will not be permitted at the hearing without such notice. (B/R 1/06)

(b) Should a person charged advise that the person will be accompanied by an attorney as advisor, the administrative officer shall advise the Executive Vice Chancellor & Chief Counsel so that an attorney will be present at the hearing to represent and advise the administrative officer and to present the evidence on behalf of the administrative officer. (B/R 1/06)

6.9.7 Technical Errors. Technical departures from or errors in following the procedures established in the Nevada System of Higher Education Code or in any applicable stated prohibition, policy, procedure, rule, regulation or bylaw of a System institution under which disciplinary procedures are being invoked shall not be grounds to withhold disciplinary action unless, in the opinion of the president, the technical departures or errors were such as to have prevented a fair and just determination of the charges.

6.9.8 Closed Hearings. The hearing shall be closed unless the person charged requests an open hearing. Only the person charged and one advisor, the administrative officer and one advisor, the person or persons conducting the hearing, a person designated to record a hearing, as may be provided in this chapter, and witnesses while such witnesses are presenting evidence may be present for a closed hearing. When a hearing is held on a charge made under Subsection 6.2.[~~2(o)~~] ***1(w)*** of the Nevada System of Higher Education Code, the institution's affirmative action officer may also be present for a closed hearing. When a hearing is held on a charge made under Subsection 6.2[.~~2(p)~~] ***1(x)***of the Nevada System of Higher Education Code, the institution's affirmative action officer may also be present for a closed hearing, and any person who alleges to be the victim of an act of sexual harassment may have a non-attorney supporter present for a closed hearing during the person's testimony only. (B/R 6/92)

6.9.9 Consolidated Hearings.

(a) When more than one person is charged with prohibited conduct arising out of a single occurrence, or out of multiple occurrences, a single hearing may be held for all of the persons so charged. Such persons may request that their cases be consolidated with others or separated from others. The administrative officer shall make determinations regarding consolidation. All such determinations shall be subject to revision by the general hearing officer, institutional hearing committee or special hearing officer, as the case may be. In the event of such revision, all cases affected shall be rescheduled for hearing.

(b) The separation of one or more cases from a group of cases previously set for a consolidated hearing shall not be considered to affect the consolidation of the remaining cases in the group.

6.9.10 Absence of the Person Charged. If the person charged does not appear, either personally or through an advisor, at a hearing without satisfactory explanation for the absence having been made at the earliest opportunity, or should the person charged leave the hearing before its conclusion, the hearing shall proceed without the person charged and the general hearing officer, institutional hearing committee or the special hearing officer and special hearing committee, as the case may be, shall make findings of fact, recommendations or a report, as the case may be, on the available evidence. The fact that an administrative hearing or a civil or criminal trial for the person charged is pending shall not be considered a satisfactory explanation for absence unless the actual hearing or trial date conflicts with a date for a hearing held under this chapter, or unless it is physically impossible for the person charged, through no fault of that person, to attend a hearing held under this chapter.

6.9.11 Subpoena. The president shall issue subpoenas to compel the attendance of persons and the presentation of documents at all hearings established under this chapter upon the request of the person charged or of the administrative officer. Such subpoena authority shall be exercised under the authority conferred by NRS 396.323.

6.9.12 Waiver or Extension of Time.

(a) Matters preliminary to hearings shall be decided, hearings conducted and cases determined under these procedures as quickly as is reasonably feasible, consistent with reasonable notice.

(b) With the approval of the administrative officer only, a person charged may waive all time limits established in this chapter, except the time limits stated in Subsections 6.10.2 and 6.11.7 of the Nevada System of Higher Education Code.

(c) Extension of time for hearings shall be authorized by general hearing officers, institutional hearing committee chairs or special hearing officers only upon good and compelling reasons. The possibility or pendency of administrative, civil or criminal proceedings against the person charged is not such a good and compelling reason for extension of time unless the

hearing or trial of such is scheduled for the same date as a hearing to be held under this chapter, or unless it is physically impossible for the person charged, through no fault of that person, to attend a hearing to be held under this chapter.

6.9.13 Repetition of Hearing. A hearing may not be held more than once on the basis of any specific complaint after a hearing process has been completed except as may be provided in this chapter.

(B/R 4/08)

Section 6.10 General Hearing Officer

6.10.1 Appointment. The president shall designate one or more general hearing officers who shall serve for terms as determined by the president.

6.10.2 Office Hearings by a General Hearing Officer. Office hearings by a general hearing officer shall be informal in nature and subject to such procedures as the president may determine. A hearing shall be held and a recommendation made to the president as soon as is reasonably possible, but no later than 6 months after the filing of the complaint with the administrative officer. (B/R 5/92)

6.10.3 Findings and Recommendations. Findings of fact and recommendations of the general hearing officer 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, except as may be limited therein. (B/R 5/92)

Section 6.11 Special Hearing Officer and Special Hearing Committee

6.11.1 Appointment of Special Hearing Officer.

(a) Within 5 college working days after making a decision to hold a hearing before a special hearing officer and a special hearing committee, the president shall select a special hearing officer and, within the above-referenced time period, shall inform the person charged and the administrative officer of the identity of the special hearing officer. (B/R 5/92)

(b) Special hearing officers shall be attorneys who have been members of the State Bar of Nevada for at least 5 years or who are otherwise qualified by professional experience in presiding at judicial or quasi-judicial adversary proceedings. They will not hold any employment or other contractual relationship with any System institution during the period of their service.

6.11.2 Duties of the Special Hearing Officer. The function of the special hearing officer shall be that of presiding officer of a special hearing committee during a hearing with the following authority:

(a) To make all rulings on matters relating to the conduct of the hearing, including the admission of evidence;

(b) To maintain order, and the special hearing officer may exclude anyone who refuses to be orderly;

(c) To recognize witnesses for the purpose of giving testimony during which the special hearing officer may also question witnesses;

(d) To make such rulings on procedure deemed appropriate so long as not inconsistent with the applicable procedures established in this chapter;

(e) To act as general advisor to the special hearing committee, but shall have no voting authority;

(f) To prepare, at the conclusion of the hearing, a written report which shall contain, as to the person charged, the following:

1. Findings of fact as determined by the special hearing officer together with a determination that the person charged did or did not commit the act or acts charged.

2. A finding that the act or acts did or did not constitute one or more of the causes for discipline or suspension or termination for cause established in this Code or other applicable stated prohibition, policy, procedure, rule, regulation or bylaw of a System institution.

3. Such further information as the special hearing officer may consider appropriate.

The special hearing officer's report shall be prepared and submitted to the president, with copies to each member of the special hearing committee, the person charged and the administrative officer, within a reasonable time after the conclusion of the hearing.

6.11.3 Appointment of the Special Hearing Committee.

(a) A faculty-hearing panel, composed of at least fifteen faculty members, shall be selected by the faculty senate of each System institution. Both academic faculty and administrators shall be eligible to serve. The members of the faculty-hearing panel shall serve one-year terms and upon agreeing to serve shall commit themselves in writing to serve on a special hearing committee when needed. System institution administrators are obligated by the provisions of this subsection to grant special hearing committee members administrative leave or other assistance necessary to enable them to fulfill their responsibilities as members of special hearing committees. This might require providing teaching assistance from classes or other administrative relief from assigned duties. (B/R 8/92)

(b) Except as provided in subparagraph (c) below, within 5 college working days after receipt from the president of notice of the president's decision to hold a hearing under Section 6.12 of the Nevada System of Higher Education Code, the faculty senate chair shall select the names of nine

persons from among the faculty hearing panel, the selection to be made by lot, to serve on a special hearing committee and the faculty senate chair, within the above-referenced time period, shall inform the person charged and the administrative officer of the names of the persons selected. (B/R 8/92)

(c) If a hearing is to be held on a charge or charges of sexual harassment under Subsection 6.2.~~[2(p)]~~ of the Nevada System of Higher Education Code and if a student or graduate student is involved in the charge as an alleged victim, within 5 college working days after receipt of notice of the president's decision to hold a hearing under Section 6.8.3 of the Nevada System of Higher Education Code, the faculty senate chair shall select the names of eight persons from among the faculty hearing panel, the selection to be made by lot, and the appropriate student government president shall nominate three students, to serve on a special hearing committee and the faculty senate chair and the appropriate student government president, within the above-referenced time period, shall inform the person charged and the administrative officer of the names of the persons selected or nominated.

(B/R 4/08)

6.11.4 Duties of the Special Hearing Committee. The function of the special hearing committee shall be:

(a) Together with the special hearing officer, to hear evidence presented at a hearing held under this chapter during which the committee members may also question witnesses; and

(b) To make recommendations, after reviewing the report of the special hearing officer, to the president at the conclusion of a hearing for dismissal of charges or imposition of a sanction or sanctions. Such recommendations shall be in writing and shall be made by the committee within a reasonable time after reviewing the special hearing officer's report with copies sent to the person charged and the administrative officer. The full range of sanctions established by Section 6.3 of the Nevada System of Higher Education Code is available.

6.11.5 Hearings to be Recorded. A tape recording will be made of the hearing and kept in the president's office for at least one year before being destroyed, unless the matter is brought before the courts during which time the recording will be kept until the matter is decided in the courts. Except as provided herein or for purposes of appeal, a tape recording of a closed hearing shall be confidential. The person charged, on request of and at the charged person's expense may have or, under supervision may make, a copy of such recording. No tape recording by the person charged or by other persons at the hearing will be permitted. The person charged may, at the charged person's expense, provide for a certified court reporter. A copy of the court reporter's transcript shall also be made available to the president upon the president's request and at the System institution's expense.

6.11.6 Challenges.

(a) Within 7 college working days after the faculty senate chair, and the appropriate student government president under Subsection 6.11.3(c) of the Nevada System of Higher Education *Code*, has informed the person charged and the administrative officer of the identities of the persons selected from the faculty hearing panel or nominated by the student government president, the administrative officer and the person charged or the adviser of the person charged shall meet in person or by telephone to exercise, in alternate order, the peremptory challenges provided in subparagraph (c) of this subsection. The person charged or the adviser shall exercise the first peremptory challenge. Peremptory challenges not exercised at this time shall be waived. At this time, the person charged or the adviser shall also submit written challenges for cause, as provided in subparagraph (b) of this subsection. No challenge for cause may be exercised after this date.

(b) The person charged may challenge the special hearing officer or the members of the special hearing committee for cause for the following reasons: (B/R 5/92)

1. The person challenged was a participant in the event out of which the alleged prohibited conduct arose; or

2. The person challenged 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 person charged shall submit a written statement setting forth the allegations underlying the challenge to the administrative officer. The administrative officer shall send the written challenge to the president the same day it is received, with a copy to the person challenged. Within 7 college working days after receipt of the written challenge, the president or the president's designee shall determine whether the facts present grounds for disqualification. The decision of the president shall be final. A hearing shall not be held until the challenge is decided by the president. The special hearing officer or special hearing committee members may be disqualified on their own motions. (B/R 5/92)

(c) The administrative officer and the person charged each shall have the right to challenge: (B/R 8/92)

1. In the case of a hearing to be held to hear a charge of sexual harassment under Subsection 6.2.2(p) of the Nevada System of Higher Education *Code* in which a student or graduate student is an alleged victim, no more than two members of the faculty hearing panel selected by lot and no more than one student government nominee without cause; (B/R 8/92)

2. In all other cases, no more than two members of the faculty hearing panel selected by lot without cause. (B/R 8/92)

(d) In cases of consolidated hearings, the persons charged shall be limited to a total of the number of challenges without cause appropriate under either subparagraph (c)(1) or (c)(2) above. (B/R 8/92)

(e) Replacements for disqualified special hearing officers shall be made by the president within 3 college working days after the president's decision on a challenge for cause. Replacements for disqualified special hearing committee members shall be made by lot from the faculty hearing panel or shall be nominated by the appropriate student government president as the case may be within 3 college working days after the president's decision on a challenge for cause. No further challenges for cause of either a special hearing officer or members of a special hearing committee shall be permitted. (B/R 8/92)

(f) The special hearing committee shall consist of five members. In the event a member is unable to serve due to unavoidable reasons, the administrative officer may choose to have the vacancy filled by the procedure stated in subparagraph (e) of this subsection or proceed to a hearing with the remainder of the special hearing committee, provided that the special hearing committee shall consist of no fewer than three members. (B/R 8/92)

(B/R 4/08)

6.11.7 **Hearing and Recommendation.** A hearing shall be held and a recommendation made to the president no later than 6 months after the filing of the complaint with the administrative officer. (B/R 5/92)

6.11.8 **Summary of Time Limits.** For the sake of convenience, the time limits for procedures specified throughout this section are summarized as follows:

(a) The complaint is filed.

(b) Within 60 calendar days after receipt of the complaint, the administrative officer completes the investigation. During that time period, the administrative officer shall issue a charging letter to the person charged who then has 7 college working days after receipt of the charging letter to respond to it, if desired.

(c) Within 7 college working days after the completion of the investigation, the administrative officer makes a recommendation to the president on whether to hold a hearing or not.

(d) Within 7 college working days after receipt of the administrative officer's recommendation, the president makes a decision on whether to hold a hearing or not and informs the administrative officer and faculty senate chair of the decision.

(e) Within 5 college working days after notification of the president's decision, the president shall choose a special hearing officer and the faculty senate chair shall choose nine names from the faculty hearing panel and each shall forward the names to the person charged and the administrative officer.

(f) Within 7 college working days after the president and the faculty senate chair have forwarded the name of the special hearing officer and the names chosen from the faculty hearing panel, the administrative officer

and the person charged or the adviser of the person charged meet to exercise peremptory challenges and to transmit challenges for cause.

(g) The same day that challenges for cause are received by the administrative hearing officer, the administrative hearing officer shall send such challenges to the president.

(h) Within 7 college working days after receipt of challenges with cause, the president shall make a decision on the challenges.

(i) Within 3 college working days after the president's decision on challenges for cause, vacancies in the appointments of special hearing officer or members of a special hearing committee shall be filled.

(j) Within six months after the filing of the complaint with the administrative officer, the hearing shall be held and a recommendation made to the president for action.

(B/R 1/07)

Section 6.12 President's Decision

6.12.1 Options Available. The president shall review the findings of fact and recommendations of the general hearing officer or the institutional hearing committee or, in cases heard before a special hearing officer and special hearing committee, the report of the special hearing officer and the recommendations of the special hearing committee. The president may:

(a) Dismiss the charge;

(b) Affirm the recommended sanction;

(c) Impose a lesser sanction than recommended;

(d) Impose a greater sanction than recommended; or

(e) Order a new hearing.

6.12.2 Decision and Notification. The president shall reach a written decision within a reasonable time after receipt of findings of fact and recommendations from the general hearing officer or institutional hearing committee or after receipt of reports and recommendations from the special hearing officer and the special hearing committee. The president shall notify the person charged and the administrative officer of the decision. If the action taken is reduction in pay, suspension, expulsion or termination, the person charged shall either be notified by personal delivery of the decision or shall be notified by certified or registered mail, return receipt requested. [~~If a minor student is suspended or expelled, the minor's parents or legal guardian shall be notified of the action by certified or registered mail, return receipt requested, sent to the parents' or legal guardian's last known address posted on the records of the registrar of the member institution involved.~~] If there is no appeal, the president's decision is final.

(B/R 1/07)

Section 6.13 Appeals

6.13.1 Requirements for Appeals.

(a) Appeals from the decision of the president must be filed by the person charged within 10 college working days of the receipt of the decision. The appeal must be in writing and shall be directed to the administrative officer.

(b) The facts set forth in the appeal must reasonably establish that:

1. The procedures under which the person was charged are invalid or were not followed;

2. The person charged did not have adequate opportunity to prepare and present a defense to the charges;

3. The evidence presented at the hearing was not substantial enough to justify the decision; or

4. The sanction imposed was not in keeping with the gravity of the violation.

6.13.2 Decision on Appeal.

(a) Within 7 college working days after receipt, the administrative officer shall direct the appeal, together with any reply the administrative officer deems necessary provided a copy of the reply is sent to the person charged, to:

1. The president for reconsideration when the sanction imposed is suspension or reduction in pay or a lesser sanction.

2. To the Board of Regents for action when the sanction imposed is expulsion or termination.

(b) A decision on the appeal shall be made within a reasonable time after receipt of the appeal by the president or within a reasonable time after the next Board of Regents meeting during which the appeal was considered. For applicable appeals, the appeal shall be placed on the meeting agenda of the Board of Regents as soon as is legally possible under Nevada law after receipt of the appeal. The president or the Board of Regents, as the case may be, shall give notification of the decision in the same manner as is provided in Subsection 6.12.2 of the Nevada System of Higher Education Code.

(c) The president or the chair of the Board of Regents, as the case may be, may request a personal appearance of the person charged if the president or the chair of the Board of Regents, as the case may be, is of the opinion that justice will be served by such appearance. The appearance of the person charged shall be limited to the issues raised by the appeal as provided in Subsection 6.13.1 of the Nevada System of Higher Education Code. The person charged must be informed that an

appearance is not compulsory and a nonappearance will not prejudice the appeal.

(d) The president or the Board of Regents, as the case may be, may:

1. Dismiss the charge;

2. Affirm the charge;

3. Impose a lesser sanction; or

4. Order a new hearing.

(B/R 2/08)

Section 6.14 Records

All reports and decision reached after hearings or appeals held under this chapter are declared to be public records subject to the provisions or exclusions of the public records laws of the Nevada Revised Statutes as they may be interpreted by the courts. (B/R 5/92)

(B/R 1/07)

Section 6.15 Dismissed Charges

Whenever charges against a person are dismissed, all documents relating to the case will be deposited with the president where they shall be retained for a period of one year, after which time they shall be released to the person who was charged if requested by that person, or shall be destroyed unless destroyed sooner pursuant to regulations, policies or procedures established by the System institution.

(B/R 1/07)

Section 6.16 Classified Employees and Research Technologists

(a) Employees of the System who are in the classified service of the State of Nevada shall be disciplined only under the procedures established by the Nevada Revised Statutes and the State Personnel Division Rules for Personnel Administration.

(b) Research technologists of the Desert Research Institute shall be disciplined only under the procedures established in the DRI Technologists Manual, as authorized by the Board of Regents.

(B/R 6/08)

Section 6.17 Lie Detector Tests

Lie detector tests shall not be required in conjunction with System personnel proceedings nor in relation to System personnel matters.

(B/R 1/07)

Section 6.18 Applicability to Others

In the event any person who is not a member of the System community should engage in conduct prohibited by this chapter, the president or the president's designee shall inform that person that the person is not authorized to remain on the premises owned or occupied by the System and shall direct such person to leave the premises. In the event such person fails to leave the premises after being ordered to do so, the president or the president's designee may cause such person to be ejected. Nothing herein shall be so construed as to authorize or prohibit the presence of any such person prior to such violation nor to affect such person's liability for trespass or loitering as prescribed by law.

(B/R 1/07)

PROPOSED REVISIONS – BOARD OF REGENTS HANDBOOK

TITLE 4, amendments to Chapter 1, Section 22; Chapter 8, Section 13, Chapter 20 (to conform references to new Chapter 10)

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

Title 4, Chapter 1

Section 22 Computer Resources Policy

3. Privacy Issues: The NSHE provides security measures to protect the integrity and privacy of electronic information such as administrative data, individual data, personal files, and electronic mail. All FERPA (Family Educational Rights and Privacy Act) requirements are followed. Users must not circumvent security measures. While computing resources are System property and all rights are retained regarding them, these rights will be balanced with a reasonable and legitimate expectation that technical staff and administrators will not casually or routinely monitor traffic content or search files. The content of files shall only be examined when there is a reasonable suspicion of wrongdoing or computer misconduct as determined by the institution President or his or her designee. Examination of files shall be limited to the matter under consideration. Disciplinary matters involving computer and network systems shall be handled in accordance with Chapter 6 ***or Chapter 10*** of the NSHE Code. Within the limits of the capability of the computer system, NSHE shall protect the legitimate privacy interests of users and those about whom information is stored.

Title 4, Chapter 8

Section 13 Policy Against Discrimination and Sexual Harassment; Complaint Procedure

INTRODUCTION

This Policy is divided into three parts. Section A states the NSHE policy against discrimination. Section B states the NSHE policy against sexual harassment. Section C contains the complaint and investigation procedure for discrimination and sexual harassment complaints. These procedures are in addition to disciplinary complaints brought against professional employees or students under Title 2, Chapter 6 ***or Chapter 10*** of the NSHE Code (or if applicable, institution student codes of conduct),or against classified employees under the Nevada Administrative Code. However, information gathered as part of the complaint process under this section may be used in connection with disciplinary proceedings.

. . .

C. Complaint and Investigation Procedure.

. . .

4. Investigation and Resolution.

(c) After the recommendation has been made, a determination will be made by appropriate management regarding the resolution of the matter. If warranted, disciplinary action up to and including involuntary termination or expulsion will be taken. Any such disciplinary action

shall be taken, as applicable, in accordance with NSHE Code Chapter 6 ***or Chapter 10*** (or applicable Student Code of Conduct), or, in the case of classified employees, NAC Chapter 284. 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 Chapter 6 ***or Chapter 10*** the applicable Student Code of Conduct, or the Nevada Administrative Code, the investigation conducted pursuant to this policy may be used as part of such investigations. The administrative officer, in his or her 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, Ch. 6 ***or Chapter 10*** the burden of proof shall be by a preponderance of the evidence. 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, and if an appeal is provided, to appeal the decision.

. . .

(e) In the event actions are taken against an individual under NSHE Code Chapter 6 ***or Chapter 10*** (or applicable Student Code of Conduct) or NAC Chapter 284, 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 FERPA.

Title 4, Chapter 20

A. STUDENTS

. . .

Section 7. <u>Hazing</u>

. . .

4. Each institution within NSHE shall develop clear procedures for dealing with hazing, requirements for reporting hazing, clear reporting lines for infractions, investigation procedures, and potential discipline. Each institution shall apply a reasonable person standard, and the discipline shall be proportionate to the infractions. All disciplinary actions or sanctions shall be congruent with Chapter 6 ***or Chapter 10*** of the NSHE Code and appropriate institutional bylaws. Both individuals and organizations committing an offense under the anti-hazing policy may be found in violation and be subject to appropriate disciplinary sanctions.

B. STUDENT GOVERNMENT

. . .

Section 3. <u>Regulations for Meetings of Student Governments</u>

. . .

5. e. Any violation of this section constitutes a violation of Section [~~6.2.2(t)~~] ***10.2.1(u)*** of the Nevada System of Higher Education Code and shall be processed procedurally in accordance with Chapter ~~6~~ **<u>10</u>** of the Nevada System of Higher Education Code.

5.f The office of every student government official found to have engaged in conduct in violation of this section shall become vacant upon a final determination being made under Chapter ~~6~~ **<u>10</u>** of the Nevada System of Higher Education Code that such violation has occurred.