

**BOARD OF REGENTS
BRIEFING PAPER**

Agenda Item Title: Amendments to the Board of Regents' Handbook Title 4, Chapter 1, new Section 31, Possession of Weapons on NSHE Property

Meeting Date: Sept. 6-7, 2012

1. BACKGROUND & POLICY CONTEXT OF ISSUE:

The Board requested that a proposed policy regarding the possession of weapons on NSHE campuses be drafted. Nevada Revised Statutes 202.265 prohibits the possession of dangerous weapons, including firearms, on the property of the Nevada System of Higher Education, unless written permission to have the weapon is received from the president of the institution. Individuals who are authorized to carry a concealed weapon must still get the permission of the president pursuant to NRS 265.3673(3). The policy sets forth a procedure to be followed at the institutions to request the permission of the president to possess a weapon on campus.

2. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

The proposed amendment creates a new Chapter 31, in Title 4 of the Handbook that sets forth the policy of the Board of Regents regarding possession of weapons on NSHE property. The policy establishes a procedure to be followed at the institutions in reviewing requests for permission to carry a weapon or firearm on NSHE property. Under the policy, the president must consider, investigate and evaluate each request on a case by case basis. The factors to be considered by the president, include, but are not limited to:

- A specific risk of attack presented by an actual threat;
- A general risk of attack presented by the nature of the individual's current or former profession; or
- A legitimate educational or business purpose.

The review may include evaluation by the institution's law enforcement; interview of the applicant; background check; review of the applicant's permit to carry a concealed firearm; and evaluation of other means to alleviate the perceived risk of attack or educational or business purpose. A written decision is to be issued, with an explanation of the reasons for the decision and any geographic or time limitations imposed. The statutory exception for peace officers and school security guards is set forth. The policy states that permission must be obtained before a weapon is brought on campus, including weapons that are possessed for educational, business, recreational or training purposes. A process to request reconsideration of a denial of a request for permission to carry a weapon is included. The policy provides a timeframe of 10 working days to process an initial request or a request for reconsideration. The time period may be extended for a reasonable time for additional investigation.

3. IMPETUS (WHY NOW?):

The Board requested that a proposal be presented.

4. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Nevada law provides authority for NSHE to identify certain circumstances when weapons and/or concealed firearms may be permitted on its premises.
- There is no procedure set forth in Board of Regents' policy regarding the manner in which permission may be obtained to carry or possess a weapon in accordance with

NRS 202.265.

- Under the proposed procedure, requests to possess weapons will be handled in a consistent manner at all NSHE institutions.
- The policy will allow presidents to grant permission in appropriate cases where there is a need based upon actual threats, general threats to persons in certain professions, and for educational or business uses.
- The process will clarify the information and documentation that applicants should submit in making a request.
- Applicants will have an opportunity to request reconsideration of a denial and to present additional evidence in support of the request.

5. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- The presidents already respond to requests for permission to carry weapons and there is no need for additional policy.

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

If a policy is adopted, it could simply direct the institution presidents to develop a written policy and procedure for approval of requests to possess a weapon for his or her campus.

7. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title #_ Chapter #_ Section #____
- Amends Current Board Policy: Title #4, by adding a new Chapter 31.
- Amends Current Procedures & Guidelines Manual: Chapter #____ Section #____
- Other:
- Fiscal Impact: Yes____ No__X__
- Explain:_____

POLICY PROPOSAL - Handbook
TITLE 4, CHAPTER 1, *new* SECTION 31
POSSESSION OF WEAPONS ON NSHE PROPERTY

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

POSSESSION OF WEAPONS ON NSHE PROPERTY

1. INTRODUCTION

NSHE institutions are institutions of higher learning devoted to their missions of public education. NSHE is committed to providing an orderly academic environment for learning that promotes the acquisition of knowledge and advances the free exchange of ideas. The preservation of this educational environment is an important objective for the NSHE and its institutions.

Many students entering NSHE institutions are under 18 years of age, and pre-school age children, elementary school children and high school students attend programs or classes on NSHE campuses. Medical and dental patients of all ages are also seen on NSHE campuses. Members of the public often attend events on institution campuses.

The United States Supreme Court has recognized that schools are sensitive places where prohibitions on the possession of firearms are permitted.¹ The statutory prohibition of weapons, including firearms on campus is longstanding. The prohibition contributes to the welcoming and open nature of the NSHE institutions and promotes an atmosphere conducive to learning.

Nevada law provides authority for NSHE to identify certain circumstances when weapons and/or concealed firearms may be permitted on its premises. This policy sets forth the circumstances and processes required to be followed for a person to obtain permission to carry a weapon or firearm on NSHE campuses.

2. STATUTORY PROHIBITIONS OF WEAPONS/FIREARMS ON CAMPUS

Nevada statutes prohibit the possession of certain weapons, including firearms, on NSHE property. NRS 202.265 provides in pertinent part as follows:

NRS 202.265 Possession of dangerous weapon on property or in vehicle of school or child care facility; penalty; exceptions.

¹ *District of Columbia v. Heller*, 554 U.S. 570, 626-7 and 626-7, n. 26 (2008).

1. Except as otherwise provided in this section, a person shall not carry or possess while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility:

- (a) An explosive or incendiary device;**
- (b) A dirk, dagger or switchblade knife;**
- (c) A nunchaku or trefoil;**
- (d) A blackjack or billy club or metal knuckles;**
- (e) A pistol, revolver or other firearm; or**
- (f) Any device used to mark any part of a person with paint or any other substance.**

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of:

- (a) A private or public school or child care facility by a:
 - (1) Peace officer;**
 - (2) School security guard; or**
 - (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.****

5. For the purposes of this section:

- (a) "Child care facility" means any child care facility that is licensed pursuant to [chapter 432A](#) of NRS or licensed by a city or county.**
- (b) "Firearm" includes any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.**
- (c) "Nunchaku" has the meaning ascribed to it in [NRS 202.350](#).**
- (d) "Switchblade knife" has the meaning ascribed to it in [NRS 202.350](#).**
- (e) "Trefoil" has the meaning ascribed to it in [NRS 202.350](#).**
- (f) "Vehicle" has the meaning ascribed to "school bus" in [NRS 484A.230](#).**

Individuals who have been granted concealed firearms permits in Nevada are still prohibited from carrying a concealed firearm on NSHE property, unless permission is obtained pursuant to NRS 202.265. In this regard, NRS 202.3673(3)(a) provides:

NRS 202.3673 Permittee authorized to carry concealed firearm while on premises of public building; exceptions; penalty.

...

3. A permittee shall not carry a concealed firearm while the permittee is on the premises of:

- (a) A public building that is located on the property of a public school or a child care facility or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed**

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firearm while he or she is on the premises of the public building pursuant to subparagraph (3) of paragraph (a) of subsection 3 of [NRS 202.265](#).

3. WRITTEN REQUEST FOR PERMISSION TO CARRY WEAPON ON NSHE PROPERTY

- a. **General Rule:** *An individual seeking permission to carry a weapon², as defined in NRS 202.265, while on NSHE property must make a written request to the president of the NSHE institution on whose campus the applicant seeks to carry a weapon. This requirement to make a written request to the president also applies to individuals who have been granted permits to carry a concealed firearm in Nevada and applies to all firearms, whether or not they are loaded or capable of firing. The individual requesting permission must not bring a weapon onto the institution property unless and until permission in writing has been granted by the president. The written request must set forth the reasons for the request and address any applicable factors identified in Section 4 below.*
- b. **Exception for Certain Peace Officers and School Security Guards:** *The requirement for written permission does not apply to Nevada peace officers and school security guards as defined in NRS 289.150-NRS 289.360, and other state and federal law enforcement personnel, who are required to carry weapons while on duty or while off duty.*
- c. **Personal Security/Bodyguards.** *Individuals, who are employed as personal security or bodyguards and who have been granted a permit to carry a concealed firearm, must submit a request and obtain approval to carry a weapon in accordance with this policy. The institution may, but is not required to, expedite such requests.*
- d. **Other Uses Not Permitted without Approval:** *The use of weapon(s) for educational, recreational or training purposes on NSHE property must also be approved in writing by the president pursuant to this policy.*

4. PRESIDENT'S DECISION

- a. **Factors for Consideration of Request:** *An NSHE institution president who receives a written request from an individual to carry a concealed weapon on the campus must consider, investigate, and evaluate each request on a case by case basis, giving individual consideration to each specific request, and must make a determination on each request according to a need standard. The individual need to carry a weapon shall be determined by the president in consideration of, but not limited to:*

²The use of kitchen knives and similar utensils for food preparation or consumption; scalpels or other cutting instruments used by physicians, dentists, and researchers, etc., and saws or other shearing devices used by NSHE facilities employees are not prohibited by this policy.

1. *a specific risk of attack presented by an actual threat;*
2. *a general risk of attack presented by the nature of the individual's current or former profession, as established by actual evidence of increased risk of attack on such individuals; or*
3. *a legitimate educational or business purpose.*

The president's consideration of the request must include an evaluation of the request by and a recommendation from the institution's law enforcement or security office. In addition, the president's consideration of the request, may also include, but is not be limited to:

1. *an interview of the applicant;*
2. *a background check of the applicant;*
3. *a review of the applicant's permit to carry a concealed firearm;*
4. *an evaluation by the appropriate institution personnel of whether other means exist to alleviate the perceived risk of attack or educational or business purpose;*
5. *the individual's training with regard to the particular weapon;*

b. Communication of President's Decision: The president's written decision should be issued within 10 working days after receipt of request, but this time period may be extended for a reasonable time period for additional investigation of the request. The president shall inform the individual in writing of the determination.

1. *Denial of Request: In the event of a denial of a request, the president shall provide a written explanation of the determination.*
2. *Approval of Request: In the event of an approval of a request, the president shall specify the conditions, if any, under which the person may carry a concealed weapon, including but not limited to geographic or time restrictions.*

5. RECONSIDERATION OF DENIAL. *An individual whose written request to carry a weapon on campus has been denied may request reconsideration of the denial by submitting to the president a written request, including a response to the president's determination that the applicant did not demonstrate need or a legitimate educational or business purpose, and any additional evidence of need or of legitimate educational or business purpose. The president's written decision should be issued within 10 working days after receipt of the request for reconsideration, but this time period may be extended for a reasonable time period for additional investigation of the request. The president shall review the request, consider the response and additional evidence, if any. The president shall provide a written determination regarding the reconsideration*

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request and the president's decision on the request for reconsideration is final and not subject to appeal.

6. **CHANCELLOR'S APPROVAL REQUIRED AT SYSTEM LOCATIONS.** *Requests for permission to carry weapons at System Administration offices that are not located on the campus of an institution, must be sent to the Chancellor. The procedures set forth in Sections 3-4 above apply to the Chancellor's review of such requests.*
7. **NO AUTOMATIC APPROVAL.** *The failure of the president or the chancellor to issue the written decision on a request for permission to carry a weapon or on a request for reconsideration within the 10 working day time period set forth in Section 4 and 5 above, shall not constitute the granting of permission.*