

BOARD OF REGENTS  
BRIEFING PAPER

**1. AGENDA ITEM TITLE:** Handbook Revision: Technical Update to Policies Governing Discrimination

**MEETING DATE:** November 30-December 1, 2017

**2. BACKGROUND & POLICY CONTEXT OF ISSUE:**

Existing Board policy includes comprehensive provisions regarding discrimination. In 2015, the Board adopted extensive revisions to these provisions recommended by the NSHE Title IX Task Force to comply with the federal Violence Against Women Act. At that time, the lists of acts of unlawful discrimination throughout the *Handbook* were expanded to include, among other items, discrimination based on “sexual orientation, gender identity or expression.”

The 2017 Legislature passed [Senate Bill 188 \(Chapter 197, Statutes of Nevada 2017\)](#), which revises provisions prohibiting certain discriminatory acts. In particular, Section 22 of S.B. 188 amends NRS 396.530 as follows:

**S.B. 188 - Sec. 22. 396.530 Discrimination in admission prohibited.**

The Board of Regents shall not discriminate in the admission of students on account of national origin, religion, age, physical disability, sex, *sexual orientation, gender identity or expression*, race or color.

System staff recommends revising Board policy under *Title 4, Chapter 16* prohibiting discrimination in admission to NSHE institutions to include discrimination based on “sexual orientation, gender identity or expression.”

In addition, System staff recommends a technical Code revision to *Title 2, Chapter 10, Section 10.2.1* (Prohibited Conduct for Students) to include “gender expression” which was omitted when this section was updated to include other forms of discrimination in the 2015 revisions. This Code revision will make this section consistent with other lists of acts that constitute unlawful discrimination, as amended in 2015, under *Title 2, Chapter 6, Section 6.2.1 (w)* for NSHE Faculty; *Title 2, Chapter 8, Section 8.3.2 (o)* for DRI, and *Title 4, Chapter 8, Section 13(A)* under the NSHE Non-Discrimination Policy.

**3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

Amend *Title 4, Chapter 16, Sections 5* (University Admission – General Policy), *18* (Community College Admission – General Policy) and *26* (State College Admission – General Policy) to expand the prohibition on discrimination to include gender identity or expression. In addition, expand the prohibited conduct for students with regard to acts of unlawful discrimination students to include gender expression (*Title 2, Chapter 10, Section 10.2.1*). See the attached policy proposals.

The Code revision (*Title 2, Chapter 10, Section 10.2.1*) and *Handbook* revisions to *Title 4, Chapter 16, Sections 5, 18, and 26* were presented at the September 7, 2017, meeting of the Academic, Research and Student Affairs Committee and are now presented for approval.

**4. IMPETUS (WHY NOW?):**

The 2017 Legislature passed S.B. 188, effective July 1, 2017, to revise NRS 396.530 and expand the prohibition on discrimination in the admission of students to include discrimination on the basis of sexual orientation, gender identity or expression. Board policy should be updated to reflect this statutory revision.

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

- The policy revision is required by NRS 396.530, as amended by S.B. 188, and is consistent with broader Board policy prohibiting discrimination on the basis of sexual orientation, gender identity or expression.

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

None have been presented.

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

None have been presented.

**8. COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Amends Current Board Policy: *Title 2, Chapter 10, Section 10.2.1* and *Title 4, Chapter 16, Sections 5, 18 and 26*
- Amends Current Procedures & Guidelines Manual: Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Other: \_\_\_\_\_
- Fiscal Impact: Yes \_\_\_\_\_ No  X
- Explain: \_\_\_\_\_

**POLICY PROPOSAL**  
**TITLE 2, CHAPTER 10, SECTION 10.2.1**  
Rules of Conduct and Procedures for Students of the Nevada System of  
Higher Education – Prohibited Conduct

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

10.2.1 **Prohibited Conduct.**

The following conduct is prohibited:

.....

- (x) Any act of unlawful discrimination based on race, creed, color, gender (including pregnancy related conditions), age, sexual orientation, disability, whether actual or perceived by others, military status or military obligations, religion or national origin, gender identity *or expression*, or genetic information, or any act of employment or educational retaliation against any person who has made a complaint about such discrimination.

**POLICY PROPOSAL**  
**TITLE 4, CHAPTER 16, SECTIONS 5, 18 AND 26**  
Institutional Admissions –Discrimination Prohibited  
(S.B. 188 [Chapter 197, *Statutes of Nevada 2017*])

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

**Section 5. University Admission – General Policy**

1. In the admission of students, universities shall not discriminate on the basis of a person's age, disability, ethnicity, gender, national origin, race, religion, [ø] sexual orientation, *or gender identity or expression*.

....

**Section 18. Community College Admission – General Policy**

1. In the admission of students, community colleges shall not discriminate on the basis of a person's age, disability, ethnicity, gender, national origin, race, religion, [ø] sexual orientation, *or gender identity or expression*.

....

**Section 26. State College Admission – General Policy**

1. In the admission of students, the state college shall not discriminate on the basis of a person's age, disability, ethnicity, gender, national origin, race, religion, [ø] sexual orientation, *or gender identity or expression*.