

BOARD OF REGENTS BRIEFING PAPER

1. AGENDA ITEM TITLE: Handbook Revision: Senate Bill 420 - Student Publications

MEETING DATE: September 7-8, 2017

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

The 2017 Legislature passed [Senate Bill 420 \(Chapter 321, Statutes of Nevada 2017\)](#) which revises provisions governing pupil publications in public schools and student publications in the Nevada System of Higher Education (NSHE). A copy of S.B. 420 is attached. For NSHE, Section 2 of S.B. 420 requires the Board of Regents to adopt a written policy governing student publications for the universities, state colleges and community colleges within NSHE and specifies certain requirements under the policy including time, place and manner for distribution of student publications; protection of certain rights for students working as journalists; and certain prohibitions on content restriction and actions against individuals involved with student publications.

Because each NSHE institution is unique with regard to whether it has a student publication, as well as how such a publication is organized and distributed, System staff recommends adoption of a new Board policy to comply with S.B. 420 that requires presidents of institutions with student publications adopt an institutional policy that includes the provisions required under S.B. 420, and that such policies must be adopted and available publicly by December 31, 2017.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend Board policy to add a new section under *Title 4, Chapter 19* (Statements of Policy for Student Publications) that requires presidents of NSHE institutions with student publications to adopt a policy governing student publications that includes the requirements listed under S.B. 420. See the attached policy proposal.

4. IMPETUS (WHY NOW?):

The 2017 Legislature passed S.B. 420, which is effective on October 1, 2017, and requires the Board of Regents to adopt a policy governing student publications within NSHE, as detailed under Section 2 of S.B. 420.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Adoption of a new Board policy governing student publications is required under Section 2 of S.B. 420.
- Allowing presidents of the institutions with student publications to adopt institutional policies – in lieu of one broad policy governing all NSHE institutions – will allow the presidents and institutions the flexibility to address their unique circumstances and work with their respective student publications and broader campus community to adopt an institutional policy that not only complies with federal and state law (including S.B. 420), but also address their distinct campus needs, including basic questions such as the time, place and manner for distribution of student publications.

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 4, Chapter 19, new Section 1*
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes _____ No X _____
- Explain: _____

POLICY PROPOSAL
TITLE 4, CHAPTER 19, *new* SECTION 1
Institutional Policy on Student Publications

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

Section 1. Institutional Policy on Student Publications

- 1. The Board of Regents recognizes the importance of student publications for a campus community and supports freedom of speech and the press, as protected by the United States Constitution, the Nevada Constitution, federal law, and state law. Pursuant to Senate Bill 420 (Chapter 321, Statutes of Nevada 2017), the president of each university, state college and community college that has a student publication shall establish a written policy which:*
 - a. Establishes reasonable provisions governing the time, place and manner for the distribution of student publications;*
 - b. Protects the right of expression in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution for students working on student publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the student publications;*
 - c. Prohibits, without limitation, the following:*
 - i. Restricting the publication of any content in student publications unless the content would substantially disrupt the ability of the institution to perform its educational mission;*
 - ii. Dismissing, suspending, disciplining or retaliating against a faculty member, employee or other person acting as an adviser for a student publication or as an adviser to students working as journalists on a student publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a student engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and*
 - iii. Expelling, suspending or otherwise disciplining a student for engaging in conduct in accordance with the policy, even if such conduct unintentionally leads to a substantial disruption of the ability of the institution to perform its educational mission; and*
 - d. Includes a disclaimer indicating that any content published in a student publication is not endorsed by the Board of Regents, the System or a university, state college or community college within the System.*
- 2. Each institution with a student publication shall post a copy of its policy adopted pursuant to this section on its website on or before December 31, 2017.*

RENUMBER SECTIONS 1 THROUGH 6 AS 2 THROUGH 7.

CHAPTER.....321

AN ACT relating to education; requiring the board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils to adopt a written policy relating to the distribution of and right of expression for pupils working as journalists on pupil publications; requiring the Board of Regents of the University of Nevada to adopt a similar policy for student publications; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that each pupil of a public school, including a pupil enrolled in a charter school or a university school for profoundly gifted pupils, is entitled to express himself or herself in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution. (NRS 388.077) **Section 1** of this bill requires the board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils to adopt a written policy for pupil publications which: (1) establishes reasonable provisions governing the time, place and manner for the distribution of those publications; (2) protects the right of expression for pupils working on those publications as journalists; (3) prohibits restrictions on the publication of any content in a pupil publication unless the content would substantially disrupt the performance of the school’s educational mission; and (4) includes a disclaimer indicating that any content published in a pupil publication is not endorsed by the public school. **Section 2** of this bill requires the Board of Regents of the University of Nevada to adopt a similar written policy for student publications.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 388.077 is hereby amended to read as follows:
388.077 1. Each pupil of a public school, including, without limitation, each pupil of a university school for profoundly gifted pupils, is entitled to express himself or herself in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution.

2. Any expression described in subsection 1 must not be disruptive of instruction at a public school, including, without limitation, a university school for profoundly gifted pupils, must not be used to ~~bully~~ *engage in bullying or cyber-bullying* or intimidate any person and must not be organized, broadcast or



endorsed by a public school, including, without limitation, a university school for profoundly gifted pupils.

3. *The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils shall adopt a written policy for pupil publications which:*

(a) Establishes reasonable provisions governing the time, place and manner for the distribution of pupil publications;

(b) Protects the right of expression described in subsection 1 for pupils working on pupil publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the pupil publications;

(c) Prohibits, without limitation, the following:

(1) Restricting the publication of any content in pupil publications unless the content would substantially disrupt the ability of the public school to perform its educational mission;

(2) Dismissing, suspending, disciplining or retaliating against an employee or other person acting as an adviser for a pupil publication or as an adviser for pupils working as journalists on a pupil publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a pupil engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and

(3) Expelling, suspending or otherwise disciplining a pupil for engaging in conduct in accordance with the policy, unless such conduct substantially disrupts the ability of the public school to perform its educational mission and the disruption was intentional; and

(d) Includes a disclaimer indicating that any content published in a pupil publication is not endorsed by the public school.

4. The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils ~~must~~ **shall** adopt a policy prescribing procedures for the resolution of a complaint by a pupil of the school district, charter school or university school for profoundly gifted pupils that the rights of the pupil described in subsection 1 **or 3** have been violated. The policy required by this subsection may be part of a comprehensive discrimination grievance policy of the school district, charter school or university school for profoundly gifted pupils or may be a separate policy.

5. *As used in this section:*

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.



(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

Sec. 2. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board of Regents shall adopt a written policy for the Universities, state colleges and community colleges within the System for student publications which:

1. Establishes reasonable provisions governing the time, place and manner for the distribution of student publications;

2. Protects the right of expression in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution for students working on student publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the student publications;

3. Prohibits, without limitation, the following:

(a) Restricting the publication of any content in student publications unless the content would substantially disrupt the ability of the institution to perform its educational mission;

(b) Dismissing, suspending, disciplining or retaliating against a faculty member, employee or other person acting as an adviser for a student publication or as an adviser to students working as journalists on a student publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a student engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and

(c) Expelling, suspending or otherwise disciplining a student for engaging in conduct in accordance with the policy, unless such conduct substantially disrupts the ability of the institution to perform its educational mission and the disruption was intentional; and

4. Includes a disclaimer indicating that any content published in a student publication is not endorsed by the Board of Regents, the System or a university, state college or community college within the System.

Sec. 3. (Deleted by amendment.)

