

BOARD OF REGENTS
BRIEFING PAPER

Agenda Item Title: Public Information Contained in Personnel Files

BACKGROUND & POLICY CONTEXT OF ISSUE:

In September 2005, the Board of Regents added Section 5.6.3 to the Code of the Nevada System of Higher Education providing that “Any information contained in employment application materials ... submitted for consideration of employment within NSHE is confidential, except the position of Chancellor.”

The intention of this provision was to enhance the competitiveness of applicant pools by protecting the confidentiality of candidates for NSHE positions, given that public disclosure of an individual’s status as an applicant could jeopardize the applicant’s current employment status in his or her home institution.

An unintended consequence of Section 5.6.3, however, is that NSHE institutions are not able to disclose educational and employment history even after search processes are concluded, when there is no longer a need for preserving the confidentiality of search processes. This works at odds with the System’s commitment to conducting the public’s business in an open and transparent manner and would invalidate the historical practice of NSHE institutions publishing academic credentials for faculty in academic catalogues.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

After consulting with the Human Resources Advisory Committee, the Executive Vice Chancellor recommends that the Board amend Sections 5.6.2 & 5.6.3 of the Code to provide that educational and employment history submitted for consideration of employment or obtained after employment with NSHE become public records upon acceptance of an employment offer by the candidate.

IMPETUS (WHY NOW?):

Both UNLV and UNR have received public information requests regarding university foundations, including the educational and employment records of employees. This has brought into focus that the September 2005 revision to the Code designed to protect the confidentiality of search processes. The existing policy may limit the disclosure of employment history and educational records, even after the employee is hired, absent the employee’s written authorization or a court order.

Additionally, it is notable that NSHE institutions have historically published the academic credentials of their faculty and professional staff in undergraduate and graduate catalogues and other institutional publications. This practice is encouraged among the higher education community in that it helps build confidence in the academic reputation of the institution on the part of prospective students.

The System’s interests and the legitimate interest of the public in obtaining such historical information would best be served by making the educational and employment history of its employees available to the public, both on request and through the continuing publication of academic credentials in undergraduate and graduate catalogues and other institutional publications.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Would enhance public confidence in the NSHE, with respect to recruiting qualified faculty and staff and preserve the integrity of search processes.
- Would enhance the NSHE's commitment to public accountability and transparency.
- Would enable NSHE institutions to build their academic reputations by continuing to publish the academic credentials of their faculty and professional staff in academic catalogues and other institutional publications.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

- Having excluded educational and employment history from the definition of a public record in September 2005, some faculty or professional staff members may perceive that now construing such records as public documents would intrude on personal privacy.
- Some faculty or professional staff members may perceive that the proposed revision to the confidentiality provisions of the Code is an over-reaction to recent media inquiries.
- It is possible that some potential applicants for faculty position may consider such matters confidential and may thereby hamper some recruiting.

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

- Do not amend Code in order to maintain confidentiality of employment and educational history.
- Discontinue publication of academic credentials of faculty in undergraduate and graduate catalogues, absent written consent of faculty.
- Broaden the definition of public records further so that additional personal and application records can be disclosed without the employees consent.

COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
 Amends Current Board Policy: Title #2 Chapter # 5 Section # 5.6.2(b) and 5.6.3
 Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
 Other: _____
Fiscal Impact: Yes _____ No X

Proposed Amendment: [Note: No changes are proposed in Sections 5.6.2 or 5.6.2(a). These sections are included for context only. Changes are proposed for Sections 5.6.2(b) and 5.6.3, as indicated.]

Section 5.6 Faculty Benefits

5.6.2 Personnel and payroll files of Nevada System of Higher Education professional staff are confidential. Personnel and payroll records may only be released pursuant to the written authorization of the professional staff member or pursuant to a court order directing the release of the records that has been signed by a judge with jurisdiction over the matter. The provisions of Title 2, Chapter 5, Sections 5.6.2 and 5.6.3 apply to letters of appointment. (B/R 12/05)

(a) The professional staff member shall have access to his or her official personnel and payroll files, and the professional staff member may grant access to such files to a representative with a written authorization from the staff member. The following additional personnel shall have access to a professional staff member's personnel and payroll files solely for reasons germane to the performance of their official duties: the staff member's supervisors, which may include a departmental chair, dean, director, vice-president, provost, president, and chancellor; institution payroll officers; institution Personnel officers, which may include appointed disciplinary officers; System legal counsel; internal auditors; members of the Board of Regents; faculty senate chair; and confidential institution committees including but not limited to tenure and grievance committees. (B/R 1/04)

(b) The following information in these personnel files is public information and must be disclosed to the public upon request: the employee's name, title, job description, compensation and perquisites, business address and business telephone numbers, beginning date of employment and ending date of employment, educational background and work history.

5.6.3 Any information contained in employment application materials (e.g. letters of interest, curriculum vitae, application, employment and educational records, publications or work samples) submitted for consideration of employment within NSHE are confidential, except the position of Chancellor, during search processes until such time as a candidate accepts employment within NSHE. During search processes, such ~~Such~~ documents can only be released pursuant to the written authorization of the prospective professional staff member or a court order directing the release of the records that has been signed by a judge with jurisdiction over the matter. Upon acceptance of an employment offer, information contained in the application materials as stated in 5.6.2 (b) shall become public records. (B/R 9/05)