

Title 4 - Codification of Board Policy Statements

Chapter 8

**STUDENT RECRUITMENT AND RETENTION POLICY, EQUAL EMPLOYMENT
OPPORTUNITY POLICY AND AFFIRMATIVE ACTION PROGRAM FOR THE NEVADA
SYSTEM OF HIGHER EDUCATION**

Section 1.	Introduction	2
Section 2.	General Policy of the Board of Regents on the Recruitment, Admission and Retention of Students	2
Section 3.	General Policy of the Board of Regents on Equal Employment Opportunity	3
Section 4.	Responsibility for Compliance	3
Section 5.	NSHE Equity, Diversity, and Inclusion Council	4
Section 6.	Dissemination of Policies	4
Section 7.	Implementation Policies	5
Section 8.	Academic Reporting and Monitoring	6
Section 9.	Classified Personnel Services Reporting	6
Section 10.	Grievance Procedures Relating to Equal Opportunity	6
Section 11.	Reviews	10
Section 12.	Participation in Community Affairs	10
Section 13.	Contract Compliance for Construction, Skilled Trades and Purchasing	10
Section 14.	NSHE Policy Against Sexual Harassment and Complaint Procedure	10

Section 1. Introduction

The Nevada System of Higher Education is guided by the principle that there shall be no difference in the treatment of persons because of race, religion, color, age, sex, disability, or national origin, and that equal opportunity and access to facilities shall be available to all. This principle is applicable to every member of the Nevada System of Higher Education community, both students and employed personnel at every level, and to all units, facilities, and services of the Nevada System of Higher Education. (B/R 3/93)

This principle governs the admissions and subsequent treatment of students in all institutions, as well as student participation in extracurricular activities. It is a guiding policy in the employment of students, either by the Nevada System of Higher Education or by outsiders through the System. All student services, including financial aid, placement, tutoring, and counseling, are governed by the concept of equal opportunity. (B/R 11/88)

The same principle is applicable in NSHE-owned or NSHE-approved housing, in the use of food services, student unions, and all other Nevada System of Higher Education facilities. (B/R 11/88)

In the employment of all personnel, the Nevada System of Higher Education recognizes that as a public agency it has a further commitment: It is obligated to support Federal and State policies which seek to achieve equal opportunity in employment for members of minority groups, women, and persons with disabilities. As used in this document, minority groups will be the groups defined in Health, Education, and Welfare (HEW) guidelines. Two important concepts are embodied in Equal Employment Opportunity:

1. Nondiscrimination
2. Affirmative Action

Affirmative action requires more than employment neutrality. It requires the Nevada System of Higher Education to make additional efforts to recruit, employ, retain, and promote qualified women, minorities, and persons with disabilities. The affirmative action concept requires positive action to overcome the effects of long-established and pervasive forms of exclusion and discrimination; otherwise, benign neutrality in employment practices will tend to perpetuate the status quo indefinitely. (B/R 12/08)

Section 2. General Policy of the Board of Regents on the Recruitment, Admission and Retention of Students

Participation by members of minority groups, women, and members of other protected classes in higher education is a priority issue with the Board of Regents. Increasing student participation and the completion of postsecondary educational programs by persons in these groups is important and necessary and will require innovative and diverse approaches for their recruitment, admission and retention in the Nevada System of Higher Education. Each institution is encouraged to devote significant resources to support the recruitment and retention of students from these groups. Each institution should prepare and implement a plan of action to provide outreach to potential students, or organizations, which can find such

potential students, for their admission to the Nevada System of Higher Education. Financial incentives should be developed for the financially disadvantaged to encourage their admission and retention in the System. Additional resources should be devoted to activities designed to encourage students from these groups to continue their education in the System. (B/R 11/88)

In short, it is the responsibility of the Board of Regents and the officers and employees of the Nevada System of Higher Education to help diversify our society and establish social justice by actively taking measures to ensure that the growing population of minority groups, women and other protected classes are prepared to participate fully in the life of our state and our nation. At the very least, this requires that the Board, its officers and employees take active steps to recruit and retain students from these groups in the postsecondary educational programs of the Nevada System of Higher Education. (B/R 11/88)

Section 3. General Policy of the Board of Regents on Equal Employment Opportunity

It is hereby resolved that the reaffirmed policy of the Nevada System of Higher Education shall be to promote equal opportunity of employment for members of minority groups, women, persons with disabilities, and members of other protected classes in all positions. The affirmative action necessary to implement this policy shall include, but not be limited to, active recruitment among minority groups, women, persons with disabilities, and other protected classes and the creation of programs designed to lead to their qualification for both academic and classified positions.

This affirmative action is not discrimination in reverse; rather, it is a program designed to expand the group of qualified people from whose ranks appointments can be made.

Further, affirmative action requires that the rank and salary of minorities, women, persons with disabilities, and other protected classes presently employed by the Nevada System of Higher Education be evaluated annually in order to insure that rank and salary determinations are made in an equitable manner.

(B/R 12/08)

Section 4. Responsibility for Compliance

1. The Board of Regents and the Chancellor have delegated to each President the responsibility for insuring that each administrative unit complies with the terms of the Equal Opportunity and Affirmative Action policies set forth by the Nevada System of Higher Education, as well as all applicable Federal and State statutes, laws, orders, and regulations. (B/R 11/88)
2. Vice Presidents, deans, and other administrative officers have the direct responsibility for the compliance of the administrative units under their jurisdiction with the System Equal Opportunity and Affirmative Action policies and with the Federal and State statutes, laws, orders, and regulations.
3. Each college or equivalent administrative unit, and in some cases, units within colleges, must identify an affirmative action officer who has the responsibility of coordinating, monitoring, and reporting on the enforcement of equal opportunity activities at the college or unit level. (B/R 11/88)

4. Each Office of Admissions and each department, which admits students, has the specific responsibility for insuring that equal opportunity in education is provided to all.

Section 5. NSHE Equity, Diversity, and Inclusion Council

To support the principle established in Section 1 of this Chapter, an Equity, Diversity, and Inclusion Council (EDIC) will be established to review, evaluate, and, as needed, formulate additional proposed NSHE equity, diversity, and inclusion goals, policies, and practices, and provide statewide leadership in best practices. The Equity, Diversity, and Inclusion Council shall report to the Chancellor and shall be appointed in conformity with Title 1, Chapter 4 to include representatives from each NSHE institution.

The charge of the Council shall be set by the Chancellor to include the following tasks:

1. Recommend to the Chancellor and the Board of Regents proposed goals, policies, practices, related strategies, and accountability measures on diversity, equity, and inclusion;
2. Conduct a continuing review of existing goals, policies, practices, concerns, and information related to diversity, equity, and inclusion on all NSHE campuses;
3. Provide for opportunities for communication among NSHE institutions to identify and promote best practices for ensuring equity, diversity and inclusion among the students, staff and faculty of the System;
4. Support and monitor the Board of Regents' Master Plan goals and strategies for equity and diversity;
5. Encourage regular collaboration between and among institutional faculty members and staff on issues related to equity, diversity, and inclusion; and
6. Support the Board of Regents' Cultural Diversity Committee with regular reports, supported by current research and related data, on the charges outlined in the Committee's mission related to equity, diversity and inclusion issues.

(B/R 9/09)

Section 6. Dissemination of Policies

1. The Equal Opportunity Policy Statement and Affirmative Action Program for the Nevada System of Higher Education will be distributed to all System employees.
2. Information relating to the Nevada System of Higher Education Affirmative Action plan will be communicated in an annual report to the Board of Regents. This information will be available upon request to system employees, community organizations, and Federal, State and local agencies, as well as other interested persons. (B/R 11/88)

Section 7. Implementation Policies

1. At the institutional level, responsible administrators must:
 - a. Identify a person or persons to be responsible for Affirmative Action and Equal Opportunity.
 - b. Analyze the present composition of the institution's workforce by years of service, position, salary, race, and sex to determine the existence of any under-utilization of women, minorities, persons with disabilities, or other protected classes.
 - c. State steps that will be taken to correct any such under-utilization.
 - d. Set realistic employment, promotional, and programmatic goals (i.e. the recruitment of minority and female students into fields of study that will prepare them for positions in which such persons are currently under-utilized) that will accomplish the general purpose of this Affirmative Action Program.
 - e. Continue the active recruitment of members of minority groups, women, persons with disabilities, and other protected classes. For professional personnel, this effort is not restricted to the demographic areas from which the Nevada System of Higher Education normally draws its personnel but is expanded to include any areas, nationwide, where qualified minorities, women, and persons with disabilities may be located.
 - f. Publicize all available open positions internally and/or externally. Internal and external searches are defined and reported as follows:
 - (1) Internal within a single institution of the Nevada System of Higher Education.
 - (2) Internal among all NSHE institutions.
 - (3) External among the region or nation.

(B/R 12/08)

2. It is the objective of the NSHE to conduct internal or external searches for all full-time and half-time professional staff positions (defined in Title 4, Chapter 3, Section 2) with the exception of Temporary Part-time Faculty (defined in Title 4, Chapter 3, Section 32). The institutional President or Chancellor may waive the search requirement where he or she determines the waiver to be in the best interest of the institution or System unit. Each institution and System unit must have an internal process for requesting search waivers and for obtaining the approval of the institutional President or Chancellor. Each institution or System unit will be expected to maintain a list of search waivers and to report to the Chancellor and the Board annually.
3. This shall not be interpreted as requiring a search within the institution in order to fill positions by internal institutional promotion, transfer, positions of academic department chairs or positions of directors in a community college who serve in the same capacity as academic chairs do in the universities or state college. Such internal institutional promotions, transfers, and positions of academic department chair or positions of directors in a community college must be approved by the President or the Chancellor, as the case may be. This also shall not be interpreted as altering the 1971 agreement between the NSHE and the U.S. Department of Agriculture related to the Cooperative Extension Service.

4. The Chancellor's Office shall collect and maintain information on (1) the number of minorities, women, and members of other protected classes employed in professional and classified positions; (2) the number of minorities, women, and members of other protected classes enrolled as students; and (3) any additional information necessary to determine the impact of policy changes on the number of minorities, women, and members of other protected classes enrolled or employed in an NSHE institution. Annually this information shall be reported to the Board of Regents. (B/R 8/08)
5. It is the policy of the System to establish and maintain programs whereby women, minority group members, persons with disabilities, and members of other protected classes will be trained in internally conducted training programs for the purpose of employee development. The Nevada System of Higher Education encourages the establishment of appropriate plans in all its administrative units so that regular evaluations can be made to determine what, if any, changes are needed in these programs and what has been accomplished. (B/R 5/03)

Section 8. Academic Reporting and Monitoring

The administrative units must utilize checklists and summaries of the steps of affirmative action taken in the recruitment process and submit them with the employment document to the appointing authorities. These checklists and summaries must identify all final candidates interviewed for the position by sex and race, and also identify the person nominated for the position by name, race, and sex. If minorities, women, persons with disabilities or members of other protected classes were referred as final candidates for the position and not hired, an explanation must be given as to the reason they were not hired. All unit files must include a list of recruitment sources. (B/R 12/08)

Section 9. Classified Personnel Services Reporting

Departments are required to report the reasons that a woman, a minority, a person with a disability or a member of a protected class was not hired or promoted. These reports will be monitored to insure that the hiring or the promoting is made on the basis of job-related criteria and is not discriminatory. (B/R 12/08)

Section 10. Grievance Procedures Relating to Equal Opportunity

Persons who feel aggrieved because of alleged acts of discrimination, which are in violation of the rights guaranteed by the Nevada System of Higher Education and/or Institutional Equal Employment Opportunity/ Affirmative Action Policy Statement, must try to resolve the complaint(s) within the following procedures. Complaints of discrimination shall be investigated by the appropriate affirmative action officer.

1. Filing Complaint(s) of Discrimination.

- a. As used in these procedures, "institution President" may be the President of a member institution or, as it applies to the special or service units, it shall be the Chancellor.
- b. As used in these procedures, "working day" shall mean any day other than a Saturday, Sunday or holiday as designated by the Nevada Revised Statutes.
- c. Formal complaint(s) must be filed with the affirmative action officer by the complainant(s) on the institutional complaint form. A complainant shall state the remedy or corrective action, which he/she wishes to see implemented.
- d. Complaints of discrimination in employment process, hiring, promotion, demotion, evaluation, transfer or termination must be filed with the institutional affirmative action officer within one hundred and eighty (180) calendar days after the discovery of the alleged act of discrimination. Complaints of discrimination resulting from a student grievance regarding housing, access to course offerings, counseling, financial assistance, athletics or any educational programs/activities must be filed with the institutional affirmative action officer within one hundred and eighty (180) calendar days after the discovery of the alleged act of discrimination. Complaints based upon sex discrimination in admission shall also be processed in accordance with this section.
- e. If a complaint is filed against an institutional affirmative action officer, the institutional President shall appoint a person other than the affirmative action officer to handle the complaint, and all references in these procedures to the affirmative action officer shall refer to that person.

2. Notification of Respondent. The institutional affirmative action officer, within five (5) working days of receipt of the written complaint, shall notify the person, against whom the complaint is filed, hereafter referred to as the respondent(s), and shall forward a copy of the complaint(s) to said respondent(s).

3. Preliminary Review by Institutional Affirmative Action Officer.

- a. Within five (5) working days of receipt of the written complaint, the institutional affirmative action officer shall initiate mediation procedures. If this does not resolve the complaint within thirty (30) days after mediation has begun, the institutional affirmative action officer shall investigate the complaint. The investigation shall be completed within sixty (60) days after the filing of the complaint. If the affirmative action officer believes that there are reasonable grounds to support the complaint, the affirmative action officer shall: (B/R 5/92)
 - (1) Organize a grievance committee under the provisions of this section; or (B/R 5/92)
 - (2) After consulting with the institutional President, file a complaint under Chapter Six of the Nevada System of Higher Education Code. (B/R 5/92)
- b. If the mediation resolves the complaint, a written statement of the mediation's outcome will be presented to the institutional President.

4. Grievance Committee.

- a. The institutional affirmative action officer shall organize the Grievance Committee and shall serve as secretary, without vote, to the Committee.
- b. The Grievance Committee shall be composed of no less than three persons and no more than five.
 - (1) The institutional affirmative action officer shall determine the number of members of the Grievance Committee and shall recommend the names of persons to be appointed to the committee to the institutional President who shall be the appointing authority. If either the complainant or the respondent is a student, a classified employee or a professional employee, a person or persons from one of those categories should be represented on the Grievance Committee, if at all possible. If such representation is not possible, the institutional affirmative action officer shall recommend such persons for appointment to the committee as are available and willing to serve.
 - (2) No person who is a party or a witness to the grievance shall be appointed to the Grievance Committee. Each party to the complaint, that is, the complainant and the respondent, shall have the right to challenge without cause not more than two members of the Grievance Committee. Replacements for challenged or disqualified members of the Grievance Committee shall be appointed as provided in paragraph (1) above.
- c. The Grievance Committee shall convene within three (3) working days after notice of the appointment.
 - (1) The Committee shall select a chairperson.
 - (2) The Committee shall establish a hearing date, which shall be no more than five (5) working days from the day the Grievance Committee convened. Written notice shall be given to all parties involved.
 - (3) The Committee shall hear testimony and study other evidentiary materials. The hearing shall be informal.
 - (4) The Committee shall make recommendation(s) to the institutional President as soon as possible, but no later than ten (10) working days after completion of the hearing. The Committee shall recommend the dismissal or affirmance of a complaint and, if recommending affirmance, shall also recommend appropriate corrective action.
- d. A majority report must be filed and a minority report may be filed.
- e. The affirmative action officer shall request, and when necessary, require members of the NSHE community to present evidence at the hearing on behalf of the respondent or the complainant.

5. Findings.

- a. The institutional President is not bound by the recommendations of the Grievance Committee, but shall review the report of the grievance committee and may:
 - (1) Dismiss the charge or
 - (2) Affirm the charge and take appropriate corrective action as required.
- b. The institutional President shall cause notification of the action to be sent to the respondent, the complainant and the affirmative action officer.
- c. Once the decision has been forwarded to the complainant, the complainant will have exhausted all grievance or appeals procedures within the Nevada System of Higher Education.

6. Restrictions.

- a. Neither the complainant nor the respondent shall arbitrarily delay action of the grievance procedure.
- b. The proceedings shall be closed to everyone other than the affirmative action officer; the respondent; the complainant; an advisor or legal counsel, if any, for each party; members of the Grievance Committee; and testifying witnesses.
- c. A record will be kept of the fact finding. Complainant and respondent, upon written request to the institutional President, shall have access to the records of the proceedings, which shall remain in the custody of the affirmative action officer. In case the affirmative action officer is the person charged, the records of the proceedings shall be in the custody of the office of the institutional President.

7. Rights of Individual(s).

- a. Either party in the grievance shall have the right to call witnesses.
- b. The purpose of the hearing by the Grievance Committee is to discover all the relevant facts and to encourage the parties to freely discuss the issues in as an informal a setting as is possible. Therefore, while the right to counsel by either party shall not be precluded, provided that appropriate prior notice of such counsel's attendance shall be given to the other party and the Grievance Committee at least three (3) working days prior to the hearing, the extent of participation by legal counsel at the hearing shall be determined in the sole discretion of the Grievance Committee.
- c. All evidence and proceedings are confidential and shall not be made public by any participant during mediation and hearings.
- d. This stated procedure shall not preclude an employee's or a student's right to seek other avenues of redress outside of the Nevada System of Higher Education.

(B/R 4/87)

Section 11. Reviews

Each institution's affirmative action efforts will be reviewed annually by the Board of Regents and are subject to review by Federal officials of the Office of Federal Contract Compliance and the Regional Office of Civil Rights, and State agencies as well. (B/R 11/88)

Section 12. Participation in Community Affairs

The Nevada System of Higher Education pledges its participation in and support of community programs which relate to the advancement of women, minorities, persons with disabilities and other protected classes through education, training, and employment. (B/R 12/08)

Section 13. Contract Compliance for Construction, Skilled Trades and Purchasing

1. The Federal and State governments require that all contractors working on Nevada System of Higher Education projects provide effective Equal Employment and Affirmative Action programs. On projects contracted for by the State Public Works Board, the responsibility for monitoring compliance will be with appropriate State agencies. Compliance monitoring and enforcement review for all other projects will be the responsibility of institutional affirmative action officers. (B/R 11/88)
2. Each purchasing department within the Nevada System of Higher Education will require each vendor with a contract or subcontract in excess of \$7,500 to certify that it is an Equal Opportunity Employer. Businesses operated by minority groups will be identified and will be given an opportunity to bid on Nevada System of Higher Education contracts. (B/R 11/88)

Section 14. NSHE Policy Against Sexual Harassment and Complaint Procedure

- A. Sexual Harassment is Illegal Under Federal and State Law.

The Nevada System of Higher Education (NSHE) is committed to providing a place of work and learning free of sexual harassment. Where sexual harassment is found to have occurred, the NSHE will act to stop the harassment, to prevent its recurrence, and to discipline those responsible in accordance with the NSHE Code or, in the case of classified employees, the Nevada Administrative Code. Sexual harassment is a form of discrimination; it is illegal.

No employee or student, either in the workplace or in the academic environment, should be subject to unwelcome verbal or physical conduct that is sexual in nature. Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior of a sexual nature that is not welcome, that is personally offensive, and that interferes with performance.

It is expected that students, faculty and staff will treat one another with respect.

B. Policy Applicability and Sanctions.

All students, faculty, staff, and other members of the campus community are subject to this policy. Individuals who violate this policy are subject to discipline up to and including termination and/or expulsion, in accordance with the NSHE Code or, in the case of classified employees, the Nevada Administrative Code. Other, lesser sanctions may be imposed, depending on the circumstances.

This policy is not intended to and does not infringe upon academic freedom in teaching or research as established in the NSHE Code, Chapter 2.

C. Training.

All employees shall be given a copy of this policy and each institution's Human Resources Office shall maintain documentation that each employee received the policy. New employees shall be given a copy of this policy at the time of hire and each institution's Human Resources Office shall maintain documentation that each new employee received the policy.

Each institution shall include this policy and complaint procedure in its general catalog.

Each institution shall have an on-going sexual harassment training program for employees.

D. Sexual Harassment Defined.

Under this policy, unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status;
2. Submission to or rejection of the conduct is used as a basis for academic or employment decisions or evaluations, or permission to participate in an activity; or
3. The conduct has the purpose or effect of substantially interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment in which to work or learn.

Sexual harassment may take many forms—subtle and indirect, or blatant and overt. For example,

- It may occur between individuals of the opposite sex or of the same sex.
- It may occur between students, between peers and/or co-workers, or between individuals in an unequal power relationship.
- It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance.
- It may consist of repeated actions or may even arise from a single incident if sufficiently severe.
- It may also rise to the level of a criminal offense, such as battery or sexual assault.

Determining what constitutes sexual harassment under this policy will be accomplished on a case by case basis and depends upon the specific facts and the context in which the conduct occurs. Some conduct may be inappropriate, unprofessional, and/or subject to disciplinary action, but would not fall under the definition of sexual harassment. The specific action taken, if any, in a particular instance depends on the nature and gravity of the conduct reported, and may include disciplinary processes as stated above.

Examples of unwelcome conduct of a sexual nature that may constitute sexual harassment may, but do not necessarily, include, and are not limited to:

- Physical assault;
- Sexually explicit statements, comments, questions, jokes, innuendoes, anecdotes, or gestures;
- Unnecessary touching, patting, hugging, or brushing against a person's body or other inappropriate touching of an individual's body;
- Remarks of a sexual nature about a person's clothing or body;
- Use of electronic mail or computer dissemination of sexually oriented, sex-based communications;
- Sexual advances, whether or not they involve physical touching;
- Requests for sexual favors in exchange for actual or promised job or educational benefits, such as favorable reviews, salary increases, promotions, increased benefits, continued employment, grades, favorable assignments, letters of recommendation;
- Displaying sexually suggestive objects, pictures, magazines, cartoons, or screen savers;
- Inquiries, remarks, or discussions about an individual's sexual experiences or activities and other written or oral references to sexual conduct.

Even one incident, if it is sufficiently serious, may constitute sexual harassment. One incident, however, does not usually constitute sexual harassment.

E. Procedure.

The Chancellor and each President shall designate no fewer than two administrators to receive complaints of alleged sexual harassment. The administrators designated to receive the complaints may include the following: (1) the Human Resources Officer at the institution; (2) the Affirmative Action Program Officer; or (3) any other officer designated by the president. If the Human Resources Officer or the Affirmative Action Program Officer or another officer designated by the president, is not the individual who initially receives the complaint of alleged sexual harassment, then the individual receiving the complaint must immediately forward the complaint to either the Human Resources Officer or the Affirmative Action Program Officer. (B/R 12/06)

An individual filing a complaint of alleged sexual harassment shall have the opportunity to select an independent advisor for assistance, support, and advice and shall be notified of this opportunity by the Human Resources Officer or the Affirmative Action Program Officer, or by their designee. It shall be the choice of the individual filing the complaint 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 means and manner by which an independent advisor shall be made available shall be determined by each institution or unit.

Supervisors' Responsibilities: Every supervisor has responsibility to take reasonable steps intended to prevent acts of sexual harassment, which include, but are not limited to:

- Monitoring the work and school environment for signs that harassment may be occurring;
- Refraining from participation in, or encouragement of actions that could be perceived as harassment (verbal or otherwise);
- Stopping any observed acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved individuals are within his/her line of supervision; and
- Taking immediate action to minimize or eliminate the work and/or school contact between the two individuals where there has been a complaint of harassment, pending investigation.

If a supervisor receives a complaint of alleged sexual harassment, or observes or becomes aware of conduct that may constitute sexual harassment, the supervisor must immediately contact one of the individuals identified above to forward the complaint, to discuss it and/or to report the action taken.

Failure to take the above action to prevent the occurrence of or stop known harassment may be grounds for disciplinary action.

Complaints of sexual harassment must be filed within one hundred eighty (180) calendar days after the discovery of the alleged act of sexual harassment with the supervisor, department chair, dean, or one of the administrators listed above and/or designated by the President to receive complaints of alleged sexual harassment. Complaints of prohibited conduct, including sexual harassment, filed with an institution's administrative officer pursuant to NSHE Code Chapter 6, Section 6.8.1, are not subject to this 180 day filing requirement.

1. Employees.
 - a. An employee who believes that he or she has been subjected to sexual harassment by anyone is encouraged—but it is neither necessary nor required—to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A person who receives such a request must immediately comply with it and must not retaliate against the employee for rejecting the conduct.
 - b. The employee may also choose to file a complaint with his or her immediate supervisor, who will in turn immediately contact one of the officials listed above.
 - c. If the employee feels uncomfortable about discussing the incident with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with one of the other listed officials or with any other supervisor.

- d. After receiving any employee's complaint of an incident of alleged sexual harassment, whether or not the complaint is in writing, the supervisor will immediately contact any of the individuals listed above to forward the complaint, to discuss it and/or to report the action taken. The supervisor has a responsibility to act even if the individuals involved are not supervised by that supervisor.
2. Students.
 - a. A student who believes that he or she has been subjected to sexual harassment by anyone is encouraged—but it is neither necessary nor required—to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A person who receives such a request must immediately comply with it and must not retaliate against the student for rejecting the conduct.
 - b. The student may also choose to file a complaint with his or her major department chair, who will in turn immediately contact one of the officials listed above.
 - c. If the student feels uncomfortable about discussing the incident with the department chair, the student should feel free to bypass the chair and file a complaint with one of the above officials or to any chair or dean, who will in turn immediately contact one of the officials listed above to forward the complaint, whether or not the complaint is in writing, to discuss it and/or to report the action taken. The chair or dean has a responsibility to act even if the individuals are not supervised by that chair or dean.
3. Non-Employees and Non-Students.

Individuals who are neither NSHE employees nor NSHE students and who believe they have been subjected to sexual harassment by a NSHE employee during the employee's work hours or by a NSHE student on campus or at a NSHE-sponsored event may utilize any of the complaint processes set forth above in this section.
4. Investigation and Resolution.
 - a. After receiving a complaint of the incident or behavior, an investigation by one of the above listed officials will be initiated to gather information about the incident. Each institution may set guidelines for the manner in which an investigation shall be conducted.
 - b. At the completion of the investigation, a recommendation will be made to the appropriate management regarding the resolution of the matter. The recommendation is advisory only.

- 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 in accordance with NSHE Code Chapter 6, or, in the case of classified employees, *Nevada Administrative Code*, Chapter 284. Other appropriate actions will be taken to correct problems, if any, caused by or contributing to the conduct. If proceedings are initiated under Chapter 6, the investigation conducted pursuant to this policy may be used as the Chapter 6 investigation. The administrative officer, in his or her discretion, may also supplement the sexual harassment investigation with additional investigation.
- d. After the appropriate management has made a determination regarding the resolution of the matter, and depending on the circumstances, both parties may be informed of the resolution. Certain actions made confidential under NSHE Code Chapters 5 and 6 or *Nevada Administrative Code*, Chapter 284 shall remain confidential.

F. Prompt Attention.

Complaints of sexual harassment are taken seriously and will be dealt with promptly. Where sexual harassment is found to have occurred, the NSHE institution or unit where it occurred will act to stop the harassment, to prevent its recurrence, and to discipline those responsible.

G. Confidentiality.

The NSHE recognizes that confidentiality is important. However, confidentiality cannot be guaranteed. The administrators, faculty or staff responsible for implementing this policy will respect the privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible and will maintain confidentiality to the extent possible. Examples of situations where confidentiality cannot be maintained include, but are not limited to, necessary disclosures during an investigation, circumstances where the NSHE is required by law to disclose information (such as in response to legal process), or when an individual is in harm's way.

H. Retaliation

Retaliation against an individual who in good faith complains of alleged sexual harassment or provides information in an investigation about behavior that may violate this policy is against the law, will not be tolerated, and may be grounds for discipline. Retaliation in violation of this policy may result in discipline up to and including termination and/or expulsion. Any employee or student bringing a sexual harassment complaint or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint. Intentionally providing false information is also grounds for discipline.

“Retaliation” may include, but is not limited to, such conduct as:

- the denial of adequate personnel to perform duties;
- frequent replacement of members of the staff;
- frequent and undesirable changes in the location of an office;
- the refusal to assign meaningful work;
- unwarranted disciplinary action;
- unfair work performance evaluations;
- a reduction in pay;
- the denial of a promotion;
- a dismissal;
- a transfer;
- frequent changes in working hours or workdays;
- an unfair grade;
- an unfavorable reference letter.

I. Relationship to Freedom of Expression.

The NSHE is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental rights and this policy is not intended to stifle teaching methods or freedom of expression. Sexual harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of institutions, the tradition of intellectual freedom and the trust placed in the institutions by their members.

(B/R 05/03 – Entire Section)