

BOARD OF REGENTS
BRIEFING PAPER

1. Agenda Item Title: Handbook Revision, Title 4, Chapter 8, Section 13(**) and Title 2, Chapter 6, Section 6.2.5

[**Note: Handbook Revision, Title 4, Chapter 8, Section 13 was approved at the December 42, 2011, Board of Regents meeting. This is the second hearing at which the Code revision is being presented

Meeting Date: January 20, 2012

2. Background and Policy Context of Issue:

In 2011, Vice Chancellor of Administrative and Legal Affairs Bart Patterson constituted the Chapters 5 and 6 Task Force, naming representatives from each of the NSHE institutions to the Task Force. The Task Force's work is to review Code Chapters 5 and 6 and make recommendations for amendments and new sections.

On April 4, 2011, the U.S. Department of Education, Office of Civil Rights (OCR) issued a "Dear Colleague" letter (DCL), discussing Title IX and setting forth significant guidance on Title IX requirements. In connection with related revisions of Title 2, Ch. 6, the Task Force reviewed Title 4, Chapter 8 Section 13, the NSHE Policy Against Discrimination a87 -1. Dstics on sexual violence in

ing. The OCR characterized the statistics as a call to action.
s can benefit from their schools' programs and activities.
is an effort to ensure that students can benefit from their

d legislation prohibiting discrimination based on gender
prohibition against discrimination based on gender

GINA, the Genetic Information Non-Discrimination Act, a federal law, is now in effect. The amendment includes a prohibition against discrimination based on genetic information.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Interim Chief Counsel Brooke Nielsen requests approval of an amendment to Board of Regents Policy Against Discrimination and Sexual Harassment; Complaint Procedure 4, Title 4, Chapter 8 Section 13 and Title 2, Chapter 6, Section 6.2.5 of the Code which will bring the policy into compliance with the Office of Civil Rights' April 4, 2011, "Dear Colleague" letter, recent Nevada legislation prohibiting discrimination based on g

- The amendment clarifies that sexual violence is a form of sex harassment and sex discrimination.
- The amendment defines "sexual violence".
- The amendment specifies that each institution shall provide the policy annually to students and may do so electronically.
- The amendment specifies that each institution shall include the policy on its website.
- The amendment specifies that Title IX complaints must be forwarded immediately to the institution's Title IX coordinator.
- The amendment specifies that an individual against whom a complaint of sexual harassment has been

POLICY PROPOSAL - HANDBOOK
TITLE 2, CHAPTER 6, SECTION 6.2.5
[Sexual Harassment]

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

Title 2 - Codification of Board Policy Statements

Chapter 6, Section 6.2.5:

...

(b) An alleged victim ***of sexual harassment and a person against whom a complaint of alleged sexual harassment is filed*** shall have the opportunity to select an independent advisor for assistance, support and advice. They [~~alleged victim~~ shall be advised at the beginning of the ***Title 2, Chapter 6*** complaint process that he or she may select an independent advisor and it shall become the ***ir*** choice [~~of the alleged victim~~] to utilize or not utilize the independent advisor. The independent advisor may be brought into the process at anytime. [~~at the request of the alleged victim~~]. The institutional affirmative action officer or the administrative officer shall advise the alleged victim ***and the individual against the complaint of alleged sexual harassment has been filed*** of this right. The means and manner by which an independent advisor shall be made available shall be determined by each institution or unit.

In any hearings on a complaint of sexual harassment, the burden of proof shall be by a preponderance of the evidence. In connection with any hearings, the person filing the complaint and the person against whom the complaint of alleged sexual harassment has been filed have equal rights to be interviewed, identify witnesses, provide and receive documentation and witness lists pertaining to the complaint, and to appeal the decision in accordance with Section 6.13. With respect to an institutional disciplinary proceeding alleging a sex offense, the Clery Act requires that the accuser and the accused must be informed of the outcome.