

BOARD OF REGENTS
BRIEFING PAPER

Agenda Item Title: Policy on Restricted Access Research

BACKGROUND & POLICY CONTEXT OF ISSUE:

On August 4, 2006, in response to concerns raised about practices at UNLV, the Board of Regents requested that the Presidents of UNLV, UNR, and DRI develop a System policy on classified and proprietary research, particularly with regard to confidentiality of records. The Presidents offer a new policy to clarify when and under what circumstances research records and contracts related to research may be kept confidential. Nevada statutes related to open records were reviewed by legal counsel, and the new policy complies with these requirements. This policy is written to indicate that there are circumstances when both classified and proprietary research (restricted access research) are appropriate and desirable for NSHE institutions and their faculty, but decisions not to disclose information about this research and its results should be narrowly made within the definitions within this policy. This proposed policy places primary responsibility on the President for oversight of restricted access research and confirms the ability of NSHE auditors and legal staff to have appropriate oversight as needed. The Presidents recommend this policy to the Board of Regents for adoption.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend Title 4, Chapter 12, Sections 9 and 10 to require periodic reporting on the status and outcomes of research activities and establish policies related to restricted access research.

Amend Title 4, Chapter 1, Section 4 to establish

only appropriate restricted access research is conducted by the institution.

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

- Do not approve a policy on Restricted Access Research and leave all decisions related to restricted access research up to individual institutions, as is currently the case.
- Establish a policy that does not allow the NSHE institutions to engage in classified or proprietary research.

COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____

Amends Current Board Policy: *Title 2, Chapter 9 (new); Title 4, Chapter 1, Section 4; and Title 4, Chapter 12*

Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____

Other: _____

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POLICY PROPOSAL
TITLE 2, CHAPTER 9 (new)
Confidentiality of Certain Records

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]
Changes to policy proposal made during the 6/07 Board meeting are highlighted in yellow

ESTABLISH A new CHAPTER 9 IN TITLE 2 AS FOLLOWS:

CONFIDENTIALITY OF CERTAIN RECORDS

Section 9.1 ***Definitions***

9.1.1 ***For the purposes of all approved Board policies and procedures, the following are deemed to be restricted access research, and are therefore confidential, such that unauthorized disclosure is strictly***

or customers. "Confidential business information" does not include the financial terms of a contract or the identity of a contractor, except in extraordinary circumstances where state or federal law or regulation may require the non-disclosure of such information.

(3) "Intellectual property" as defined in Title 4, Chapter 12.

(4) "Inventions" as defined in Title 4, Chapter 12.

(5) "Copyrightable works" as defined in Title 4, Chapter 12.

POLICY PROPOSAL
TITLE 4, CHAPTER 1, SECTION 4
Restricted Access Research

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]
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Section 4. Production or Inspection of Records and Requests for Information by Regents

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POLICY PROPOSAL

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Section 9. Periodic Reporting

Periodically or upon request, each NSHE President or his or her designee shall report to the

3. *The President or his or her designee may enter into contracts with confidentiality clauses where such clauses protect from public disclosure only that information defined as restricted access by Board policy and in accordance with the guidelines of the Board and institution for accountability and dissemination of research results.*
4. *NSHE auditors and legal staff shall have access to materials related to restricted access research, excluding classified research, as is appropriate and germane to the performance of their jobs.*
5. *The President or his or her designee must have the appropriate security clearance for the oversight of classified research.*