

Proposed Amendment

**TITLE 2, Chapter 6
Nevada System of Higher Education CODE**

Additions in

unlawful manufacture, distribution, dispensing, possession or use of controlled substances is prohibited in the work place.

- (i) Unauthorized absence from duty or abuse of leave privileges.
- (j) Personal or professional conduct which shows that the employee is unfit to remain in his or her position or which has an ascertainable harmful or adverse effect on the efficiency of his or her research or administrative unit.

8.3.2 Additional Prohibited Activity. The following conduct, being incompatible with the purposes of DRI, is prohibited for all employees of the DRI. This prohibited conduct shall constitute cause for discipline and may lead to the procedures and disciplinary sanctions established in this chapter of the NSHE Code.

- (a) Commission of any of the acts specified in Subsection 2.1.4 of the NSHE Code.
- (b) The use of, or threat to use, force or violence against any member or guest of the System community, except when lawfully permissible.
- (c) Interference by force, threat or duress with the lawful freedom of movement of persons or vehicles on the premises of the System.
- (d) The intentional disruption or unauthorized interruption of functions of the System, including but not limited to classes, convocations, lectures, meetings, recruiting interviews and social events, on or off premises of the System.
- (e) Willful damage, destruction, defacement, theft or misappropriation of equipment or property belonging to, in the possession of or on premises occupied by, the System.
- (f) Knowing possession on any premises of the System of any firearms, explosives, dangerous chemicals or other instruments of destruction, or other dangerous weapons as defined by the laws of the State of Nevada, without the written authorization of the president of any System institution or the president's authorized agent, unless such possession reasonably relates to duly recognized System functions by appropriate members of the faculty, other employees or students.
- (g) Continued occupation of buildings, structures, grounds or premises belonging to, or occupied by, the System after having been ordered to leave by the president of a System institution or the president's designee.
- (h) Forgery, alteration, falsification or destruction of System documents or furnishing false information in documents submitted to the NSHE.
- (i) Making an accusation which is intentionally false or is made with reckless

disregard for the truth against any member of the System community by filing a complaint or charges under this NSHE Code or under any applicable established grievance procedures in the System.

- (j) The repeated use of obscene or abusive language in a classroom or public meeting of the System where such usage is beyond the bounds of generally accepted good taste and which, if occurring in a class, is not significantly related to the teaching of the subject matter.**
- (k) Willful incitement of persons to commit any of the acts herein prohibited.**
- (l) Disorderly, lewd or indecent conduct occurring on System premises or at a System sponsored function on or off such premises.**
- (m) Any act prohibited by local, state or federal law which occurs on System premises or at a System sponsored function on or off such premises.**
- (n) The use of threats of violence against an employee or the employee's family in order to secure preferential treatment for grades, loans, employment or other service or privilege accorded by the System.**
- (o) Any act of unlawful discrimination based on race, creed, color, sex, age, handicap or national origin or any act of employment or educational retaliation against any person who has made a complaint about such discrimination.**
- (p) Any act of sexual harassment when submission to a request or demand of a sexual nature is either an explicit or implicit term or condition of employment or of academic study or grading, or where verbal or physical conduct of a sexual nature has the effect of creating an intimidating, offensive or hostile work or educational environment.**
- (q) Acts of academic dishonesty, including but not limited to cheating, plagiarism, falsifying research data or results, or assisting others to do the same.**
- (r) Willfully destroying, damaging, tampering, altering, stealing, misappropriating, or using without permission any system, program or file of the NSHE.**
- (s) Acts of hazing. Hazing is defined as any method of initiation into or affiliation with the university or community college community, a student organization, a sports team, an academic association, or other group engaged in by an individual that intentionally or recklessly endangers another individual.**
- (t) Any other conduct which violates applicable stated prohibitions, policies, procedures, rules, regulations or bylaws of the Board of Regents or a System institution.**

Formal disciplinary procedures normally follows five stages:

Stage 1 Formal Verbal Warning

Stage 2 Written Warning

Stage 3 Final Written Warning

Stage 4 Review

Stage 5 Appeal and Disciplinary Action

8.4.1 Administrative Leave. In certain cases where serious allegations have been made, including cases of gross misconduct, administrative leave may be imposed pending an investigation. Administrative leave is defined as leave for an interim period pending a disciplinary review whenever the president determines that administrative leave is required in order to 1) protect, life, limb, or property, 2) ensure the maintenance of order, or 3) remove a person from NSHE when an act of sexual harassment has been alleged against such a person and the accuser or the accused person cannot be assigned to other duties apart from each other pending the completion of an investigation and or disciplinary review into the allegation. During administrative leave an employee maintains his or her full salary and benefits but is not permitted on DRI property and has no job responsibilities.

8.4.2 Stage 1 Formal Verbal Warning. An employee will receive a formal verbal warning if the employee fails to respond to earlier informal discipline. At a private meeting with the employee, the supervisor will advise the employee that he or she is being given a formal verbal warning, a record of which will be put in the employee's personnel file. The warning shall include all documents and records to support the disciplinary action.

The employee will also be told the improvement required and when the conduct or performance will be reviewed (not less than 20 working days). This warning will be confirmed in writing and a copy of the warning will be placed in the employee's personnel file. The employee may write a written response to this warning if he or she does not agree, which will also be placed in the employee's personnel file. All written material through stage 3, including the employee responses will be placed in the employee's personnel file.

The employee may request mediation within 5 working days of a verbal warning. The President will select the mediator and the meeting(s) and final resolution will be completed and reported in 10 working days. If both the employee and supervisor accept the mediator's recommendations the subsequent stages will be terminated. If either one does not accept the recommendations the procedure will continue. The mediation process will run concurrent with 20 working days for the next review.

8.4.3 Stage 2 Written Warning. If an employee does not sufficiently improve in the described period of time after the formal verbal warning, a written warning will be issued. Disciplinary warnings should specify standards required and/or the extent to which performance or conduct falls short, and as far as possible detail the remedies required to rectify the situation and the likely consequences if the

A faculty review will occur unless the employee specifically requests that a review not be conducted. If there is no review the process will move directly to sanctions. The Faculty Senate will form a review committee for the President (composed of at least three members of the faculty who are not employed in the employee's unit), which will review all documents and records and determine what additional information is needed to complete their review. During this review the employee must be able make a statement to the committee and present documents contesting the final written warning. At the chair's discretion the committee may interview witnesses. The chair will be responsible for the confidential records (written and/or taped) of all review proceedings and maintain all documents and records. The President will select the chair and the employee or supervisor may challenge any committee member if a reasonable basis to believe a bias or conflict exists. Both the Executive Director or Vice President and employee have the right to review and comment on all material prior to the final report being delivered to the President. A written recommendation of the Faculty Senate Review committee shall be submitted to the President, within 10 working days of receiving its charge. The President shall make the final decision in the matter. The President will provide both the employee and Executive Director or Vice President with a summary of the findings and his or her decision within 10 working days.

8.4.6 Stage 5 Appeal and Sanctions. The employee may appeal for action (in writing, within 5 working days) to the President for the following:

1. The procedures under which the person was charged are invalid or were not followed;
2. The person charged did not have adequate opportunity to prepare and present a defense to the charges;
3. The information presented for the review was not substantial enough to justify the decision; or
4. The sanction, except termination, imposed was not in keeping with the seriousness of the conduct or performance.

The employee may appeal for action (in writing, within 5 working days) to the Board of Regents for the sanction of termination.

The President or the Board of Regents, as the case may be, may:

1. Dismiss the charge
2. Affirm the charge
3. Impose a lesser or greater sanction; or
4. Order a new review.

The possible sanctions are:

1. Restitution. Is the requirement to reimburse the legal owners for a loss due to

defacement, damage, fraud, theft or misappropriation of property. The failure to make restitution shall be the cause for a more severe sanction.

2. **Reduction in Pay.** A reduction in pay may be imposed at any time during the term of an employment contract upon compliance with the procedures established in this chapter.
 3. **Suspension.** Exclusion from assigned duties for one or more workweeks without pay. The normal workweek for DRI employees is 40 hours. The workweek begins at 12:01 a.m. Sunday and ends 11:59 p.m. on Saturday.
 4. **Termination.** Immediate ending of employment after the appropriate completion of all the stages in this chapter.
- 8.4.7 **Proceedings Concurrent.** Action under the procedures established by this chapter shall go forward regardless of other possible or pending administrative, civil or criminal proceedings arising out of the same or other events.

Section 8.5 Research Technologists

Research technologists of the Desert Research Institute shall be disciplined and sanctioned only under the procedures established in the DRI Manual for Research Technologists (a part of the DRI Bylaws), as authorized by the Board of Regents. The causes resulting in disciplinary action will be the same for technologists as for other employees.