

Members Present:

Dr. Mark W. Doubrava, Chair
Mrs. Carol Del Carlo, Vice Chair
Dr. Patrick R. Carter
Ms. Amy J. Carvalho
Dr. Jason Geddes
Mr. Trevor Hayes
Ms. Lisa C. Levine
Mrs. Cathy McAdoo
Mr. Donald Sylvantee McMichael Sr.
Mr. John T. Moran
Mr. Kevin J. Page
Ms. Laura E. Perkins
Mr. Rick Trachok

Others Present:

Dr. Thom Reilly, Chancellor
Ms. Crystal Abba, Vice Chancellor, Academic and Student Affairs
Mr. Zelalem Bogale, Deputy General Counsel

Faculty senate chairs in attendance were: Dr. Maria Schellhase, CSN; Dr. Eric Wilcox, DRI; Mr. Brian Zeiszler, GBC; Dr. Laura Naumann, NSC; Mr. Theo Meek, SA; Ms. YeVonne Allen, TMCC; Dr. Vicki Rosser, UNLV; Dr. Amy Pason, UNR; and Dr. Robert Morin, WNC. Student body presidents in attendance were: Ms. Karli McFarling-Kelly, ASCSN President, CSN; Ms. Suman Randhawa, NSSA President, NSC; Mr. Joshua Padilla, CSUN President, UNLV; and Ms. Dominique Hall, ASUN President, UNR. Classified council chairs in attendance were: Ms. Sarah Wilkey, GBC; and Ms. Donna Healy, UNR.

Chair Doubrava called the meeting to order at 9:00 a.m. with all members present except Regent Hayes. Chair Doubrava led the Pledge of Allegiance.

1. Information Only – Public Comment

The following provided public comment in opposition to the student fee surcharge at UNLV:

- ¾ Kendra Newman (Ref.Newman.Kendra08.07.20n file in the Board Office.)
- ¾ Moulin Patel (Ref. Patel.Moulin08.07.20 on file in the Board Office.)

The following provided public comment in opposition to the Handbook and Code Revision, NSHE Discrimination and Sexual Harassment Policies and Procedures:

- ¾ Sage Ellis (Ref. Ellis.Sage08.07.20 on file in the Board Office.)
- ¾ Lauren Harvey (Ref.Harvey.Lauren08.07.20 on file in the Board Office.)
- ¾ Gabrielle Staples (Ref. Staples.Gabrielle08.07.20 on file in the Board Office.)
- ¾ Dr. Sondra Cosgrove (Ref. Cosgrove.Sondra08.07.20 on file in the Board Office.)
- ¾ Elliott Bailey (Ref. Bailey.Elliott08.07.20n file in the Board Office.)
- ¾ Madison Hall (Ref. Hall.Madison08.07.20 on file in the Board Office.)
- ¾ Mckenzie Papa (Ref. Papa.Mckenzie08.07.20 on file in the Board Office.)
- ¾ Madison Quillicy (Ref. Quillicy.Madison08.07.20 on file in the Board Office.)

2. Information Only – Chancellor's Report – Chancellor Thom Reilly updated the Regents on the 32nd Special Legislative Session and the UNR President Search.

The 32nd Special Legislative Session began on Friday, July 31, 2020. The Session addressed gaps in the areas of criminal and social justice policy reform, unemployment insurance and support, voting rights, stabilization of Nevada businesses, judicial branch authority to dispute rental evictions, mining taxes, and other items requested by the Legislative Counsel Bureau. NSHE monitored three bills, including Assembly Bill 3, focusing on police reform; Senate Bill 2, revising provisions related to peace officers; and Senate Bill 4, offering protections to certain businesses and local municipalities to ensure safety while Nevada reopens.

On August 13, 2020, semifinalist candidates will be selected for the UNR President Search. Semifinalist interviews to choose the finalists will be on August 24 and 25, 2020. The week of September 14, the finalists will participate in public forums. The Committee will meet for interviews on September 16, 2020. The Board of Regents will consider the Committee's recommendation for UNR President on September 17, 2020.

5.

6. Approved – Handbook and Code Revision, NSHE Discrimination and Sexual Harassment Policies and Procedure

6. Approved – Handbook and Code Revision, NSHE Discrimination and Sexual Harassment Policies and Procedures – (Continued)

(Motion continued)

records associated with a Title IX complaint or investigation (Title 2, Chapter 5, Section 5.6.2) and conforming revisions which pertain to the student code of conduct (Title 2, Chapter 10). Regent Geddes seconded.

Regent Levine stated sexual violence on college campuses is a problem across the country. Nevada is currently ranked as the state with the second-highest rate of women murdered by men. One in five women and one in sixteen men are sexually assaulted while in college. One in ten rapes occurs while the victim is at work, and more than 90 percent of sexual assault victims on college campuses do not report the assault. NSHE should build protections for those served while breaking down barriers for victims to seek justice. By adopting these policy changes, Regents are welcoming inappropriate behaviors to be swept under the rug. Regents will be opening the door for victims of sexual violence to be further victimized.

Regent Levine was concerned the policy changes were released in May but have just now come before the Board. Three months is plenty of time for General Counsel to come forward to the Board and seek input on whether to join litigation. Three months is also enough time to gauge the Office of the Attorney General of Nevada. Regent Levine spoke to several students, faculty, and community leaders who knew the regulations were coming but did not know when, were never reached out to nor consulted for their input on NSHE's plan. Regent Levine stated she would not be forced to vote for a policy that will make it easier for someone on a public campus to be sexually assaulted or harassed.

Regent Levine stated the Board has the option to hold off approving the revisions, consider signing on to litigation and seek a temporary injunction and leave it to the courts.

Regent Levine stated this turns the process for a victim seeking justice into a criminal trial and will, without doubt, discourage victims of sexual violence from coming forward. As policymakers, the Board has the power to halt this terrible and harmful law.

Regent Carvalho asked if an injunction is possible

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In response to a question from Vice Chair Del Carlo, Chief General Counsel Reynolds stated there are four ongoing lawsuits, but no injunctions are active.

Regent Levine asked if this passed, will NSHE be hindering the Nevada Attorney General from entering litigation. Chief General Counsel Reynolds responded no that NSHE can comply with the regulations but still challenge the law.

Chief General Counsel Reynolds did not have a list of institutions signed on to litigation, nor the dates that they entered litigation, but noted he would provide that list to Regents. He added the ACLU, and some women's rights groups have joined in litigation.

In response to a question from Regent Levine, Chief General Counsel Reynolds stated conversations have been happening since May. The Attorney General's Office has the independent authority to sign on to litigation, and the conversations were around whether they would pursue that on their own.

Regent Levine stated NSHE had three months to say the policies are bad for students, and this is the time for NSHE to stand up for the students. She was disappointed that NSHE did not actively push to enter litigation.

Regent Carter believed the Board had to comply to avoid repercussions. The policies are temporary if approved today.

Regent Levine stated if the policies are passed today, they are legally binding. Regent Carter clarified the policies are already legally binding per federal regulation. Regent Levine recommended that this not be approved today and that the General Counsel team review opportunities for the Board of Regents and NSHE to join the litigation and for the findings to be presented to the Board of Regents and for there to be a vote to join litigation on August 13, 2020. Chair Doubrava clarified there is no meeting on August 13, 2020.

Regent McAdoo stated she is adamantly not siding with the oppressor by voting yes at this time. She found the comment offensive. Regent McAdoo disagreed with the revisions, but she struggles with jeopardizing federal funding that helps every student.

Regent Levine stated Attorney General Ford was on the phone to speak. Chair Doubrava said he would call on the Attorney General after those already on the list to speak was complete.

NSC NSSA President Suman Randhawa thanked the Regents for giving time to this important matter. She appreciated Regent Levine's strong voice and appreciated Ms. Hall for sharing such a vulnerable and personal story. Ms. Randhawa stated she had heard too

6. Approved – Handbook and Code Revision, NSHE Discrimination and Sexual Harassment Policies and Procedures – (Continued)

carrying out heinous acts. Unfortunately, this is being presented one week before it goes into effect, but it is a crucial decision to make.

Regent Geddes stated he was positive that the Board does not stand on the side of violent criminals. The Board implements policies to ensure safe learning environments for students and employees. There is not a single institution that is not adopting these

8. Deferred – Proposals to Comply with an Additional \$25 Million Reduction in Fiscal Year 2020-2021 State Supported Operating Budget – (Continued)

Chancellor Reilly pointed out the System is in a better position for June since there was an increase of \$9 million in the operating reserve.

Chief Financial Officer Clinger stated the Supplemental Material relates to the \$15 million distribution. If the Board would like to look at other options, then the material would be prepared and brought back to the Board at the August 21, 2020, meeting.

Regent Trachok stated the Board must keep in mind that this is not cash sitting in a bank account. This is unrealized gain from approximately 22,000 accounts across the institutions that has been invested in long- and short-term investments. As the account is liquidated, it changes the holdings in that account and could result in an unrealized loss.

Chief Financial Officer Clinger clarified that by allocating or distributing from the operating reserve, it does not necessarily mean it is liquidated at that point. The Board would be authorizing the institutions the ability to go and expend the funds.

Regent McAdoo wanted to mitigate the impact on each institution by looking at this from a System perspective. Regent McAdoo shared two additional options. Take \$25 million from the operating reserve and distribute it to all the institutions, which would mean that each institution would not have a further budget reduction. The next option would be to use the percent formula to make a one-time distribution to each institution.

Regent McAdoo moved to defer action on the proposals to comply with an additional \$25 million reduction in State General Fund appropriations to the August 21, 2020, special meeting of the Board of Regents. Regent Page seconded.

Regent Perkins thanked Chancellor Reilly and Chief Financial Officer Clinger for the alternative suggestions to solve this budget crisis. Regent Perkins felt comfortable in decreasing the reserves down to 4.9 percent. Chief Financial Officer Clinger stated the option does ensure that more institutions do not have to make cuts, including the smaller institutions. There is always a risk if the market goes down. Regent Perkins believed this would speak volumes that the System is working to mitigate and lessen the effects on the institutions.

In response to a question from Regent Geddes regarding complying with direction from the Legislature, Chancellor Reilly stated NSHE made it clear that this was the recommendation, but it would have to be approved by the Board of Regents.

Regent Carter requested that the Board hear from its investment advisors on August 21, 2020.

8. Deferred – Proposals to Comply with an Additional \$25 Million Reduction in Fiscal Year 2020-2021 State Supported Operating Budget – (Continued)

In response to a question from Regent Carter related to active grants that may not be able

10. Information Only – New Business

Regent Perkins asked for the following new business:

- ¾ Can the HEPI increase be delayed due to COVID
- ¾ An item to revise the Code to allow greater latitude and freedom related to employee layoffs
- ¾ An item related to a buyout policy for service credit model
- ¾ Shared services
- ¾ Waivers for Veterans

Regent Carvalho asked for the following new business:

- ¾ Discussion about joining a lawsuit against Title IX
- ¾ Update from the Schools of Medicine related to Senate Bill 4 and how the COVID liability affects students working in clinics and hospitals
- ¾ Consider freezing tuition increases for at least the 2020-21 school year

11. Information Only – Public Comment

Attorney General Ford reported that shortly after taking office, Nevada signed on to a multistate comment letter opposing the impending Title IX regulation changes. Over the following months, his office followed the progression of the rules and communicated with other states as to the status of the new regulations. Lead counsel in Pennsylvania contacted his office regarding joining a multistate suit. In May 2020, a draft complaint and a request for declaration in support of Nevada's participation was received. His office reached out to NSHE to ascertain if there was an interest in joining the lawsuit. His office did not receive a definitive response from NSHE before the early filing date in early June. He recognized this occurred during the COVID-19 pandemic. The Attorney General's Office remains interested in opposing the rules and is available to facilitate intervention.

Public Comment from Joshua Zerbel asked the Board to review additional fees charged at UNLV, such as third-party homework platforms. It is illegal under the Higher Education Act (Chapter 34, §602.17 (g) (2)) to ask students to pay any fees that are not disclosed at the time of registration. (Ref. Zerbel.Jshua08.07.20 on file in the Board Office.)

The following provided public comment in opposition to the Handbook and Code Revision, NSHE Discrimination and Sexual Harassment Policies and Procedures:

- ¾ Julie Mejia (Ref. Mejia.Julie08.07.20 on file in the Board Office.)
- ¾ Nicole Thomas (Ref. Thomas.Nicole08.07.20 on file in the Board Office.)

The meeting adjourned at 12:29 p.m.

Prepared by:

Angela R. Palmer
Special Assistant and Coordinator
to the Board of Regents

Submitted for approval by:

Keri D. Nikolajewski
Deputy Chief of Staff
to the Board of Regents

Approved by the Board of Regents at its November 13, 2020, meeting.