

CR 92-153

RECEIVED

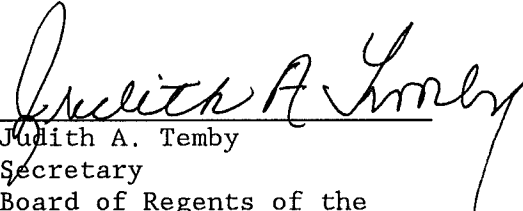
FEB 23 1993

11:30 a  
Revisor of Statutes  
Bureau

STATE OF WISCONSIN )  
  
BOARD OF REGENTS OF )  
THE UNIVERSITY OF )  
WISCONSIN SYSTEM )

I, Judith A. Temby, Secretary of the Board of Regents of the University of Wisconsin System and custodian of the official records, certify that the annexed rule, repealing s. UWS 17.06(2), Wis. Adm. Code, was duly approved and adopted by the Board on December 11, 1992. I further certify that this copy has been compared by me with the original on file with the Board and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Regents of the University of Wisconsin System at 1860 Van Hise Hall, 1220 Linden Drive, in the city of Madison, this 22nd day of February, 1993.

  
\_\_\_\_\_  
Judith A. Temby  
Secretary  
Board of Regents of the  
University of Wisconsin System

PROPOSED ORDER OF THE BOARD OF REGENTS OF  
THE UNIVERSITY OF WISCONSIN SYSTEM  
REPEALING RULES

Agency contact persons: Patricia B. Hodulik (262-6497); Judith A. Temby (262-2324)

[INTRODUCTORY CLAUSE]

The Board of Regents of the University of Wisconsin System proposes an order to repeal s. UWS 17.06(2), Wisconsin Administrative Code, relating to student nonacademic misconduct and discriminatory harassment.

[PLAIN LANGUAGE ANALYSIS PREPARED BY THE UW SYSTEM]

Pursuant to ss. 36.35 and 227.11, Wisconsin Statutes, the Board of Regents of the University of Wisconsin System ("Board") is authorized to promulgate rules governing student conduct and procedures for the administration of violations. The Board's rules governing nonacademic misconduct are set forth in Chapter UWS 17, Wisconsin Administrative Code. In 1989, the Board created s. UWS 17.06(2), prohibiting certain types of expressive behavior directed at individuals and intended to demean and to create a hostile environment for education or other university-authorized activities. The constitutionality of this rule was challenged in UW-M Post, Inc., et al., v. Board of Regents, 774 F. Supp. 1163 (E.D. Wis. 1991). In a decision issued October 11, 1991, the court sustained this challenge, holding that s. UWS 17.06(2) was, on its face, overbroad and vague, in violation of the First Amendment.

The Board subsequently initiated the revision of this rule, to correct the constitutional defects noted in the UW-M Post case. At its May, 1992 meeting, the Board approved the current s. UWS 17.06(2). The rule was forwarded for legislative review and, upon expiration of the legislative review period, was published and became effective September 1, 1992.

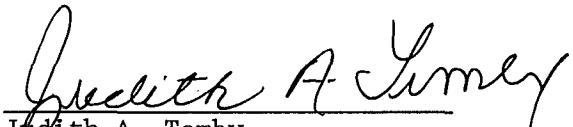
Following the Board's May, 1992 action approving the new rule, however, the United States Supreme Court handed down its decision in R.A.V. v. St. Paul, 112 S. Ct. 2538, 120 L.Ed. 2d 305 (1992). In addition, the Wisconsin Supreme Court issued its decision in State of Wisconsin v. Todd Mitchell, 169 Wis. 2d 153, 485 N.W. 2d 807 (1992). The First Amendment analysis in these two cases tends to cast doubt on the constitutional validity of s. UWS 17.06(2). Accordingly, the Board has determined that this rule should be repealed.

[TEXT OF THE RULE]

SECTION 1. UWS 17.06(2) is repealed.

It is proposed that this rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

Dated: February 22, 1943

  
\_\_\_\_\_  
Judith A. Temby  
Secretary  
Board of Regents of the University  
of Wisconsin System



# Board of Regents of The University of Wisconsin System

Office of the Secretary  
1860 Van Hise Hall, 1220 Linden Drive  
Madison, Wisconsin 53706  
(608) 262-2324

February 22, 1993

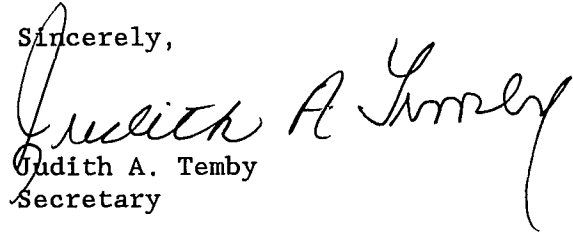
Mr. Gary Poulson  
Deputy Revisor of Statutes  
Asst. Revisor-Administrative Code  
Revisor of Statutes Bureau  
131 W. Wilson Street, Suite 800  
Madison, WI 53703-3233

Dear Mr. Poulson:

Enclosed for filing with your office are one certified copy and one uncertified copy of an administrative rule repealing s. UWS 17.06(2), *Wis. Adm. Code*. This rule was approved by the Board of Regents on December 11, 1992 and submitted to both houses of the legislature of January 5, 1993. The legislative review period has now expired, and publication is therefore appropriate.

Thank you for your assistance in this matter.

Sincerely,

  
Judith A. Temby  
Secretary

Encl.

cc: Regents  
President Lyall  
Vice Presidents  
Attorney Hodulik

G:\REGENTS\JAT\POULSON.LTR