

## STATEMENT OF SCOPE

### Board of Regents of the University of Wisconsin System

**Rule No.:** Chapter UWS 18

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**Relating to:** Conduct on University Lands

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**Rule Type:** Permanent

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#### 1. Finding/nature of emergency (Emergency Rule only):

N/A

#### 2. Detailed description of the objective of the proposed rule:

The Board of Regents of the University of Wisconsin System (Board) has been a leader in its support of freedom of expression. On October 6, 2017, the Board approved Regent Policy Document 4-21 on *Commitment to Academic Freedom and Freedom of Expression*, setting forth the expectations of the Board regarding freedom of expression.

Chapter UWS 18, Conduct on University Lands, regulates conduct on lands subject to Board control. Sections of Chapter UWS 18 relating to computer and telephone use contain certain language that should be clarified related to freedom of expression. Therefore, the Board seeks to modify this section to clarify this language, while maintaining the protections provided by the section.

#### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter UWS 18.11, Offenses Against Public Peace and Order, includes UWS 18.11(1), Computer Use. UWS 18.11(1) generally prohibits a person from using email or other means of electronic communication to intentionally harass another person. This includes electronic communications using obscene, lewd or profane language or suggesting any lewd or lascivious act sent with intent to harass, repeated communications sent with intent to harass, and anonymous communications sent with intent to harass. UWS 18.11(1) uses the terms “annoy” and “offend” in addition to “harass.”

Chapter UWS 18.11 also includes UWS 18.11(3), Improper Use of Telephones. UWS 18.11(3) generally prohibits the use of a telephone to intentionally harass another person. The section uses the term “offend” in addition to “harass.”

After careful consideration, the Board believes that the protections provided by UWS 18.11(1) and (3) would be maintained and enhanced by removing the references to “annoy” and “offend” and by expanding the prohibition of intentional harassment through electronic communications or telephone calls to include all electronic communications or telephone calls that use truly threatening or intimidating language. The prohibition on intentional harassment would not be limited to obscene, lewd or profane language or language suggesting any lewd or lascivious act.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Wisconsin Statute § 36.09(1) states: “The primary responsibility for governance of the system shall be vested in the board which shall enact policies and promulgate rules for governing the system.” Wisconsin Statute § 36.11(1)(a) states: “The board may promulgate rules under ch.227 to protect the lives, health and safety of persons on property under its jurisdiction and to protect such property and prevent obstruction of the functions of the system” Wisconsin Statute § 36.11(1)(b) states: “The board may promulgate rules under ch.227 for the management of all property under its jurisdiction, for the care and preservation thereof and for the promotion and preservation of the orderly operation of system in any or all or its authorized activities and in any or all of its institutions . . . .”

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

50 hours

**6. List with description of all entities that may be affected by the proposed rule :**

All University of Wisconsin institutions, and persons subject to the provisions of Chapter UWS 18.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

N/A

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

There is no anticipated economic impact of the proposed rule.

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