

STATE OF WISCONSIN)

BOARD OF REGENTS OF)

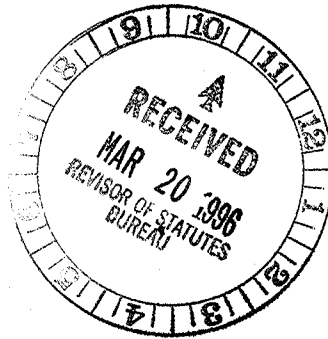
THE UNIVERSITY OF)

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 rules, relating to student nonacademic misconduct, were duly approved and adopted by the Board on February 9, 1996. 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 19 day of March, 1996.

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





ORDER OF THE BOARD OF REGENTS OF
THE UNIVERSITY OF WISCONSIN SYSTEM
REPEALING AND RECREATING RULES

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

[INTRODUCTORY CLAUSE]

The Board of Regents of the University of Wisconsin System proposes an order to repeal and recreate Chapter UWS 17, Wisconsin Administrative Code, relating to student nonacademic disciplinary procedures.

[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 student nonacademic misconduct and disciplinary procedures are set forth in Chapter UWS 17, Wisconsin Administrative Code.

In September, 1992, in connection with its repeal of s. UWS 17.06(2), Wis. Adm. Code (prohibiting the utterance of certain discriminatory epithets), the Board directed that a committee be appointed to recommend whether substitute rules or processes were needed to address discriminatory conduct on UW System campuses. This committee recommended that Chapter UWS 17, Wis. Adm. Code, be amended to address the problems of stalking and harassment within the university community, to make technical corrections in language and definitions, and to parallel more closely the provisions of Chapter UWS 14, Wis. Adm. Code, which governs student academic misconduct. A second committee was appointed to undertake these revisions. This second committee completed its work in March, 1995 and the Board of Regents has initiated the rule-making process to implement the changes recommended.

The proposed rules repeal and recreate Chapter UWS 17 in its entirety. The disciplinary process for nonacademic misconduct is restructured to correspond generally to the procedures governing academic misconduct found in Chapter UWS 14. The distinction between the "informal" and "formal" adjudicative procedures found in existing Chapter UWS 17 is eliminated, and the same procedural protections are provided in all nonacademic misconduct cases. The proposed revision also adds language, modelled on state criminal statutes, that clearly prohibits harassment and stalking by students and makes such behavior subject to disciplinary action. Other changes proposed include the addition of references to misconduct related to the use of university computing resources, several amendments to definitions of the terms used in the chapter, as well as nonsubstantive technical corrections.

[TEXT OF RULE]

Section 1. Chapter UWS 17, Wis. Adm. Code, is repealed and recreated to read:

Chapter UWS 17

STUDENT NONACADEMIC DISCIPLINARY PROCEDURES

UWS 17.01 Policy Statement. The board of regents, administration, faculty, academic staff and students of the university of Wisconsin system believe that the teaching, learning, research and service activities of the university can flourish only in an environment that is safe from violence and free of harassment, fraud, theft, disruption and intimidation. The university has a responsibility to identify basic standards of nonacademic conduct necessary to protect the community, and to develop procedures to deal effectively with instances of misconduct while observing the procedural and substantive rights of students. Any person who violates state or federal laws on university property may face prosecution in the appropriate courts. In addition, students, faculty or staff who violate university standards are subject to university disciplinary action. This chapter describes the standards and procedures for addressing nonacademic misconduct by students.

UWS 17.02 Definitions. In this chapter:

- (1) "Chancellor" means the chancellor or designee.
- (2) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
- (3) "Days" means calendar days.
- (4) "Disciplinary file" means the record maintained by the student affairs officer responsible for student discipline.
- (5) "Disciplinary probation" means a status in which a student may remain enrolled in the university only upon the condition that the student

complies with specified standards of conduct or other requirements or restrictions on privileges, for a specified period of time, not to exceed 24 months.

(6) "Disciplinary sanction" means any action listed in s. UWS 17.04(1) taken in response to student nonacademic misconduct.

(7) "Expulsion" means termination of student status with resultant loss of all student rights and privileges.

(8) "Harassment" means:

(a) Striking, shoving, kicking or otherwise subjecting another person to physical contact or attempting or threatening to do the same with the intent to harass or intimidate that person; or

(b) Engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person, which serve no legitimate purpose, and which are intended to harass or intimidate another person.

(9) "Hearing examiner" means an individual appointed by the chancellor in accordance with s. UWS 17.14(2) for the purpose of conducting a hearing under s. UWS 17.06.

(10) "Institution" means any university, center, or an organizational equivalent designated by the board.

(11) "Investigating officer" means an individual, or his or her designee, appointed by the chancellor of each institution to carry out certain responsibilities in the course of investigations of nonacademic misconduct under this chapter.

(12) "Members of the university community" means students and employees of the university.

(13) "Nonacademic misconduct hearing committee" or "committee" means

the committee or hearing examiner appointed pursuant to s. UWS 17.14 to conduct hearings under s. UWS 17.06.

(14) "Stalking" means repeatedly following or remaining in visual or physical proximity to a person, or repeatedly conveying verbal or written threats or threats implied by conduct, or a combination thereof, where:

- (a) Such conduct is intentional;
- (b) Such conduct is directed at a person;
- (c) Such conduct would cause a reasonable person to be in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint;
- (d) The actor has knowledge or should have knowledge that the specific person will be placed in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint; and
- (e) The acts induce reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint.

(15) "Student" means any person who is registered for study in an institution for the academic period in which the misconduct occurred, or between academic periods, for continuing students.

(16) "Student affairs officer" means the dean of students or student affairs officer designated by the chancellor to carry out duties described in this chapter.

(17) "Suspension" means a loss of student status for a specified length of time, not to exceed 24 months, with resultant loss of all student rights and privileges.

UWS 17.03 Nonacademic misconduct subject to disciplinary action. The university may discipline a student in nonacademic matters in the following situations:

(1) (a) For conduct which constitutes a serious danger to the personal safety of a member of the university community or guest.

(b) Examples of the conduct prohibited by this subsection include, but are not limited to: engaging in conduct that is a crime involving danger to property or persons, as defined in s. UWS 18.06(22)(d);¹ attacking or otherwise physically abusing, threatening to physically injure or physically intimidating a member of the university community or a guest; attacking or throwing rocks or other dangerous objects at law enforcement personnel, or inciting others to do so; selling or delivering a controlled substance, as defined in ch. 161, Stats., or possessing a controlled substance with intent to sell or deliver; removing, tampering with or otherwise rendering useless university equipment or property intended for use in preserving or protecting the safety of members of the university community, such as fire alarms, fire extinguishers, fire exit signs, first aid equipment, or emergency telephones; or obstructing fire escape routes.

(2) (a) For stalking or harassment.

(b) This subsection does not apply to conduct that is or acts that are protected by a person's right to freedom of speech or to peaceably assemble with others under the state and U.S. Constitutions, including, but not limited to, any of the following:

1. Giving publicity to and obtaining or communicating information regarding any subject, whether by advertising, speaking or patrolling any public street or any place where any person or persons may lawfully be.

2. Assembling peaceably.

¹The offenses enumerated in s. UWS 18.06(22)(d) include serious crimes against the person, such as sexual assaults.

3. Peaceful picketing or patrolling.

(3) For conduct that seriously damages or destroys university property or attempts to damage or destroy university property, or the property of a member of the university community or guest.

(4) (a) For conduct that obstructs or seriously impairs or attempts to obstruct or seriously impair university-run or university-authorized activities, or that interferes with or impedes the ability of a member of the university community, or guest, to participate in university-run or university-authorized activities.

(b) Examples of the conduct prohibited under this subsection include, but are not limited to: preventing or blocking physical entry to, or exit from, a university building, corridor or room; engaging in shouted interruptions, whistling, or similar means of interfering with a classroom presentation or a university-sponsored speech or program; obstructing a university officer or employe engaged in the lawful performance of duties; obstructing or interfering with a student engaged in attending classes or participating in university-run or university-authorized activities; or knowingly disrupting access to university computing resources, or misusing university computing resources.

(5) For unauthorized possession of university property or property of another member of the university community or guest.

(6) For acts which violate the provisions of ch. UWS 18, Conduct on University Lands.

(7) For knowingly making a false statement to any university employe or agent regarding a university matter, or for refusing to identify oneself to such employe or agent.

(8) For violating a standard of conduct, or other requirement or restriction imposed in connection with disciplinary action.

UWS 17.04 Disciplinary sanctions. (1) The following are the disciplinary sanctions that may be imposed for nonacademic misconduct, in accordance with the procedures of ss. UWS 17.05 to 17.07:

- (a) A reprimand;
- (b) Denial of specified university privileges;
- (c) Imposition of reasonable terms and conditions on continued student status;
- (d) Restitution;
- (e) Removal of the student from the course in progress;
- (f) Disciplinary probation;
- (g) Suspension; or
- (h) Expulsion.

(2) One or more of the disciplinary sanctions listed in sub. (1) may be imposed for an incident of nonacademic misconduct.

(3) Disciplinary sanctions shall not include the cut-off or revocation of student financial aid; however, this shall not be interpreted as precluding the individual operation of rules or standards governing eligibility for student financial aid under which the imposition of a disciplinary sanction could result in disqualification of a student for financial aid.

UWS 17.05 Disciplinary procedure. The investigating officer may proceed in accordance with this section to impose, subject to hearing and appeal rights, one or more of the disciplinary sanctions listed in s. UWS 17.04(1).

- (1) Conference with student. When the investigating officer concludes

that proceedings under this section are warranted, the investigating officer shall promptly offer to discuss the matter with the student. The purpose of this discussion is to permit the investigating officer to review with the student the bases for his or her belief that the student engaged in nonacademic misconduct, and to afford the student an opportunity to respond. If the student does not respond to the investigating officer's offer to discuss the matter, the investigating officer may proceed to make a determination on the basis of the available information.

(2) Determination by the investigating officer that no disciplinary sanction is warranted. If, as a result of a discussion under sub. (1), the investigating officer determines that nonacademic misconduct did not in fact occur, or that no disciplinary sanction is warranted under the circumstances, the matter will be considered resolved without the necessity for further action.

(3) Process following determination by the investigating officer that nonacademic misconduct occurred. (a) If, as a result of a discussion or review of available information under sub. (1), the investigating officer determines that nonacademic misconduct did occur and that one or more of the disciplinary sanctions listed under s. UWS 17.04(1) should be recommended, the investigating officer shall prepare a written report which shall contain the following:

1. A description of the misconduct;
2. Specification of the sanction sought;
3. Notice of the student's right to a hearing before the nonacademic misconduct hearing committee; and
4. A copy of this chapter and of the institutional procedures adopted

to implement this section.

(b) The written report shall be delivered personally to the student or be mailed to the student by regular first class United States mail at his or her current address, as maintained at the institution.

(c) A student who receives a written report under this section has the right to a hearing before the nonacademic misconduct hearing committee under s. UWS 17.06 to contest the determination that nonacademic misconduct occurred, or the choice of disciplinary sanction, or both.

1. Where the disciplinary sanction sought is one of those listed in s. UWS 17.04(1)(a) to (f), and the student desires the hearing before the nonacademic misconduct hearing committee, the student must file a written request with the student affairs officer within 10 days of personal delivery or mailing of the written report. If the student does not request a hearing within this period, the determination of nonacademic misconduct shall be regarded as final, and the disciplinary sanction sought shall be imposed.

2. Where the disciplinary sanction sought is suspension or expulsion under s. UWS 17.04(1)(g) or (h), the investigating officer shall forward a copy of the written report under par. (b) to the student affairs officer. The student affairs officer shall, upon receipt of the written report, proceed under s. UWS 17.06, to schedule a hearing on the matter. A hearing will be conducted unless the student waives, in writing, the right to such a hearing.

UWS 17.06 Hearing. (1) If a student requests a hearing, or a hearing is required to be scheduled under s. UWS 17.05(3)(c)2, the student affairs officer shall take the necessary steps to convene the nonacademic misconduct hearing committee or have a hearing examiner designated, and shall schedule the hearing within 15 days of receipt of the request or written report. The

hearing shall be conducted within 45 days of receipt of the request or written report, unless a different time period is mutually agreed upon by the student and investigating officer, or is ordered or permitted by the committee.

(2) A student who requests a hearing, or for whom a hearing is scheduled under s. UWS 17.05(3)(c)2, shall have the right to decide whether the matter will be heard by a hearing committee or a hearing examiner.

(3) Reasonably in advance of the hearing, the committee shall obtain from the investigating officer, in writing, a full explanation of the facts upon which the determination of misconduct was based, and shall provide the student with access to or copies of the investigating officer's explanation, together with any other materials provided to the committee by the investigating officer.

(4) The hearing before the nonacademic misconduct hearing committee shall be conducted in accordance with the following requirements:

(a) The student shall have the right to question adverse witnesses, the right to present evidence and witnesses, and to be heard in his or her own behalf, and the right to be represented by an individual of his or her choice, at his or her own expense.

(b) The committee shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value, but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall observe recognized legal privileges.

(c) The committee shall make a record of the hearing. The record shall include a verbatim record of the testimony, which may be a sound recording, and a file of the exhibits offered at the hearing. Any party to the hearing may obtain copies of the record at his or her own expense. Upon a

showing of indigence and legal need, a party may be provided a copy of the verbatim testimony without charge.

(d) The committee shall prepare written findings of fact and a written statement of its decision based upon the record of the hearing.

(e) The committee may find nonacademic misconduct and impose a sanction of suspension or expulsion only if the proof of such misconduct is clear and convincing. In other cases, proof of the misconduct shall be established by a preponderance of the credible evidence.

(f) The committee may impose one or more of the disciplinary sanctions listed in s. UWS 17.04(1)(a) to (f) that differs from the recommendation of the investigating officer. Suspension or expulsion under s. UWS 17.04(1)(g) and (h) may not be imposed unless recommended by the investigating officer.

(g) The investigating officer or another institutional representative shall present the case against the student. The investigating officer may be a witness at the hearing conducted by the committee, but does not have responsibility for conducting the hearing.

(h) The decision of the committee shall be prepared within 10 days of the hearing, and served upon the student either by personal delivery or by first class United States mail to his or her current address as maintained by the institution. The decision shall become final within 10 days of personal delivery or mailing, unless an appeal is taken under s. UWS 17.07.

(i) Failure of a party to appear at a scheduled hearing and proceed shall constitute default. The committee may either dismiss the case, or, upon a prima facie showing, find that the student committed the misconduct alleged.

(j) Hearings to receive evidence or hear argument shall be public unless the student whose case is being heard requests a closed hearing or the

committee determines that it is necessary to hold a closed hearing for a reason specified under s. 19.85, Stats. The deliberations of the committee shall not be public.

UWS 17.07 Appeal to the chancellor. (1) Where the sanction prescribed by the hearing committee is suspension or expulsion, the student may appeal to the chancellor to review the decision of the hearing committee based upon the record. In such a case, the chancellor shall sustain the decision of the nonacademic misconduct hearing committee unless the chancellor finds:

(a) The evidence of record does not support the findings or recommendations of the hearing committee;

(b) Established procedures were not followed by the nonacademic misconduct hearing committee and material prejudice to the student resulted;
or

(c) The decision was based on factors proscribed by state or federal law regarding equal educational opportunities.

(2) If the chancellor makes a finding under sub. (1), the chancellor may remand the matter for consideration by a different hearing committee, or may invoke an appropriate remedy of his or her own.

UWS 17.08 Discretionary appeal to the board of regents. Institutional decisions under ss. UWS 17.05 to 17.07 shall be final, except that the board of regents may, at its discretion, grant a review upon the record.

UWS 17.09 Settlement. The procedures set forth in this chapter do not preclude a student from agreeing that nonacademic misconduct occurred and to the imposition of a sanction, or to other terms or conditions, after proper notice has been given. Any such agreement shall be reduced to writing which, when signed by the student, shall conclude the case.

UWS 17.10 Effect of discipline within the institution. Students who are, at the time of commencement, subject to a disciplinary sanction under s. UWS 17.04(1)(d) to (f), or who are under charges as a result of a report under s. UWS 17.05(3)(c)2 that could lead to suspension or expulsion, shall not be awarded degrees during the pendency of the sanction or disciplinary proceeding.

UWS 17.11 Effect of discipline within the university system. Suspension or expulsion shall be systemwide in effect.

(1) A student who is suspended or expelled from one institution in the university of Wisconsin system may not enroll in another institution in the system unless the suspension has expired by its own terms or one year has elapsed after the student has been suspended or expelled.

(2) No person who is in a state of suspension or expulsion from the university under this chapter, or who takes leave or resigns under charges after being charged by the university under this chapter, may enter any campus without the written consent of the chief administrative officer.

(3) Upon completion of a suspension period, a student who is academically eligible may re-enroll in the institution which suspended him or her as if no suspension had been imposed.

UWS 17.12 Right to petition for readmission. A student who has been expelled may petition for readmission, and a student who has been suspended may petition for readmission prior to the expiration of the suspension period. The petition for readmission must be in writing and directed to the chancellor of the institution from which the student was suspended or expelled. The petition may not be filed before the expiration of one year from the date of the final determination in expulsion cases, or before the expiration of one-

half of the suspension period in suspension cases. The chancellor shall, after consultation with elected representatives of the faculty, academic staff, and students, adopt procedures for determining whether such petitions will be granted or denied.

UWS 17.13 Designation of investigating officer. The chancellor of each institution shall designate an investigating officer or officers for allegations of student nonacademic misconduct. The investigating officer shall have responsibility for investigating student nonacademic misconduct and initiating procedures for nonacademic misconduct under s. UWS 17.05.

UWS 17.14 Nonacademic misconduct hearing committee: institutional option. The chancellor of each institution, in consultation with faculty, academic staff, and student representatives, shall adopt policies providing for the establishment of a student nonacademic misconduct hearing committee and designation of a hearing examiner to fulfill the responsibilities of the nonacademic misconduct hearing committee in this chapter.

(1) A student nonacademic misconduct hearing committee shall consist of at least 3 persons, including a student or students, except that no such committee shall be constituted with a majority of members who are students. The presiding officer shall be appointed by the chancellor. The presiding officer and at least one other member shall constitute a quorum at any hearing held pursuant to due notice.

(2) A hearing examiner shall be selected by the chancellor from the faculty and staff of the institution.

UWS 17.15 Notice to students. Each institution shall publish and make freely available to students copies of ch. UWS 17 and any institutional policies implementing ch. UWS 17.

UWS 17.16 Consistent institutional policies. Each institution is authorized to adopt policies consistent with this chapter. A copy of such policies shall be filed with the board of regents and the university of Wisconsin system office of academic affairs.

UWS 17.17 Emergency suspension. A student may be temporarily suspended, pending final institutional action on a report of nonacademic misconduct, in accordance with the procedures of this section.

(1) The chancellor of each institution is authorized to suspend a student temporarily where the investigating officer has offered the student the opportunity for discussion under s. UWS 17.05(1); and the investigating officer recommends a sanction of suspension or expulsion; and the chancellor determines that the student's continued presence on campus:

(a) Would constitute a potential for serious harm to himself or herself;

(b) Would constitute a potential for serious harm to other members of the university community;

(c) Would pose a threat of serious disruption of university-run or university-authorized activities; or

(d) Would constitute a potential for serious harm to university facilities or property.

(2) Before imposing a temporary suspension, the chancellor shall evaluate the information indicating that the conditions specified in sub. (1) are present. If the chancellor concludes, based on the available information, that these conditions are present and that a temporary suspension is warranted, he or she shall promptly notify the student in writing, either by personal delivery or by regular first class United States mail at his or her

current address as maintained at the institution, of the intent to impose a temporary suspension, and shall provide the student with an opportunity to be heard in response.

(3) The hearing on the temporary suspension shall be held as soon as practicable after the student is notified of the intent to impose the temporary suspension.

(4) The issue at the hearing on the temporary suspension shall be whether the conditions specified in par. (1) are present, and a temporary suspension is warranted.

(5) The chancellor's decision may be rendered orally, but shall be confirmed in writing as soon as practicable after the hearing, with written notice provided to the student either delivered personally, or by regular first class United States mail at his or her current address, as maintained at the institution.

(6) If the chancellor determines that the conditions specified in sub. (1) are not present, or that a temporary suspension is not warranted, the case shall proceed in accordance with s. UWS 17.06. If the chancellor determines that the conditions specified in par. (1) are present, and a temporary suspension is warranted, the temporary suspension shall be in effect pending the final institutional decision in the matter.

(7) Where a temporary suspension is imposed, the hearing on the underlying allegations of misconduct shall be held within 21 days of the imposition of the temporary suspension, unless the student agrees to a later date. In no case shall a temporary suspension remain in effect for longer than 30 days, unless the student agrees to a longer period.

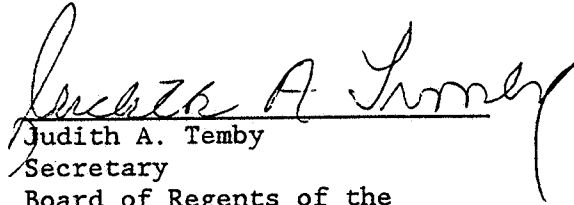
(8) The chancellor's decision to impose a temporary suspension in

accordance with this section shall be final.

[EFFECTIVE DATE]

It is proposed that this rule shall take effect on September 1, 1996.

Dated: 3-19-96

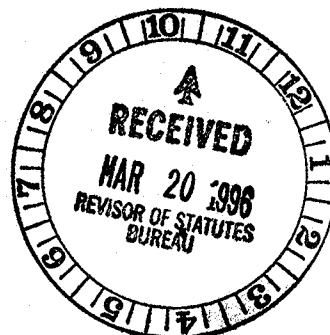

Judith A. Temby
Secretary
Board of Regents of the
University of Wisconsin System



Board of Regents of The University of Wisconsin System

Office of the Secretary
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March 18, 1996



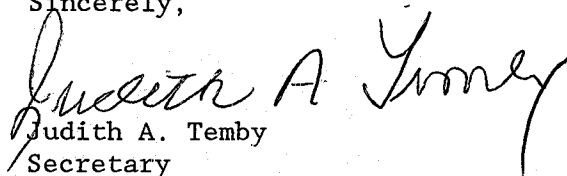
Gary Poulson
Revisor of Statutes
131 West Wilson Street
Room 800
Madison, WI 53703-3233

Dear Mr. Poulson:

Enclosed for filing with your office are one certified copy and one uncertified copy of Chapter UWS 17, Wisconsin Administrative Code, concerning student nonacademic misconduct. These rules were approved by the Board of Regents on September 8, 1995 and submitted to both houses of the legislature. As a result of legislative review, modifications to the rules were approved by the Board on February 9, 1996. The legislative review period has now expired without further legislative action, and publication of the rules is therefore appropriate.

Thank you for your assistance in this matter.

Sincerely,


Judith A. Temby
Secretary

Enclosures

cc: President Lyall
Vice Presidents
Patricia A. Brady
Margaret Lewis

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