

Clearinghouse Rule 08-099

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ORDER OF THE BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM AMENDING AND CREATING RULES

[INTRODUCTORY CLAUSE]

The Board of Regents proposes an order to repeal UWS 18.06(12); to renumber UWS 18.02(1), 18.02(3) to (7), 18.06(4), 18.06(6), 18.06(7), 18.06(10), 18.06(14), 18.06(15), 18.06(19), 18.06(22)(b), (c), and (d), 18.06(23), 18.06(24), 18.06(26), 18.06(27), 18.06(30), 18.06(31)(a) and (b), 18.06(33), 18.06(35), 18.06(36), 18.06(38)(a) and (b), 18.06(39), 18.06(40), 18.06(42), 18.06(44), 18.06(45), 18.06(46), 18.06(47), 18.06(49), and 18.06(50); to renumber and amend UWS 18.02(2), 18.06(1)(a) and (b), 18.06(2), 18.06(3), 18.06(5), 18.06(8), 18.06(9), 18.06(11), 18.06(13), 18.06(16)(a)1. to (a)6., 18.06(16m), 18.06(17), 18.06(18), 18.06(20), 18.06(21), 18.06(22)(a), 18.06(25), 18.06(28), 18.06(29), 18.06(32), 18.06(34)(a) and (b), 18.06(37), 18.06(41), 18.06(43), 18.06(48), 18.07, 18.09, and 18.10; to amend 18.04(5) and 18.06 (title); to repeal and recreate UWS 17; to create 18.07(title), 18.08(title), 18.08(6), 18.08(9)(b), 18.08(11)(a), 18.09(title), 18.10(title), , 18.11(title), 18.11(7)(d) and (e), 18.12(title), 18.12(1)(e), 18.12(2)(c), 18.12(5)(b) and (d), relating to student nonacademic misconduct, and conduct on land under the control of the Board of Regents.

[ANALYSIS PREPARED BY THE BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM]

Statutes interpreted: Sections 36.11(1), (2) and (8), and 36.35, Stats.

Statutory authority: Sections 36.11(1), (2) and (8), and 36.35, Stats.

Explanation of agency authority: Section 36.35, Stats., authorizes the Board and its designees to discipline students for misconduct, and directs the Board to promulgate rules governing student conduct and procedures for the administration of violations. Sections 36.11(1), (2), and (8), Stats., give the Board of Regents police power over all property owned by the Board, and authority to adopt rules regulating conduct and parking on university lands.

Related statutes or rules: None.

Plain language analysis: As a result of a recent review of ch. UWS 17, relating to student nonacademic misconduct, the board is considering changes in the rules to address issues on campuses and in the broader university community that have arisen since the rules were last significantly revised in May 1996. Specifically, some conduct, such as hazing, falsification of ID cards, and illegal use of alcohol or controlled substances, is not adequately addressed in the current rule. The availability of electronic communications

may improve and streamline notice and communication during the disciplinary process by allowing certain notifications to occur electronically rather than solely by personal delivery or first-class mail as currently provided. In addition, it is also desirable to clarify at this time certain terms in the provisions relating to disciplinary sanctions for nonacademic misconduct, including situations in which the misconduct occurs off campus but adversely affects a substantial university interest. The proposed rule also seeks to improve the effectiveness of the disciplinary hearing process, while preserving and protecting students' rights.

Ch. UWS 18 addresses operation of motor vehicles, parking, and other conduct on land under the control of the Board of Regents. The Board proposes several amendments to better organize the chapter, and to clarify the scope of prohibitions related to particular kinds of conduct on campus, such as bicycle riding, selling and soliciting goods and services, smoking within 25 feet of residence halls, using sound-amplifying equipment, and using computers. In the proposed rule, prohibitions on certain types of conduct are grouped according to categories that will make the rule easier to read and understand.

Summary of, and comparison with, existing or proposed federal regulations: There is no existing or proposed federal regulation for summary and comparison.

Comparison with rules in adjacent states: Public universities in the adjacent states of Illinois, Iowa, Michigan, and Minnesota each have administrative policies relating to student nonacademic misconduct and conduct on property under the control of the university. Some universities include in their policies the authority to address off-campus misconduct when the conduct affects the university's interests; in adjacent states, these include the University of Illinois at Urbana-Champaign, Southern Illinois University Carbondale, Iowa State University, the University of Iowa, Eastern Michigan University, Western Michigan University, and the University of Minnesota. Additional examples can be found at Indiana University, Ohio State University, Pennsylvania State University, and the University of Washington. Public universities also address municipal law violations in their nonacademic student conduct codes; among these are the University of California-San Diego, the University of Florida, Ohio State University, Pennsylvania State University, and the University of Washington.

Summary of factual data and analytical methodologies: In developing the proposed rules, the University analyzed other public universities' student conduct codes, conducted legal research, and analyzed model student conduct codes.

Analysis and supporting documents used to determine effect on small business: The proposed rules affect only faculty, staff, and students of the University of Wisconsin System, and other persons using University of Wisconsin lands.

Effect on small business: The proposed rules will have no effect on small business.

Comments from legislative standing committees: No comments on the proposed rules were received from either legislative standing committee.

Agency contact: Jane S. Radue (608-262-0747, jradue@uwsa.edu).

[TEXT OF RULE]

SECTION 1. UWS 17 is repealed and recreated to read:

CHAPTER UWS 17 STUDENT NONACADEMIC DISCIPLINARY PROCEDURES

UWS 17.01 Policy statement. The missions of the University of Wisconsin System and its individual institutions can be realized only if the university's teaching, learning, research and service activities occur in living and learning environments that are safe and free from violence, harassment, fraud, theft, disruption and intimidation. In promoting such environments, the university has a responsibility to address student nonacademic misconduct; this responsibility is separate from and independent of any civil or criminal action resulting from a student's conduct. This chapter defines nonacademic misconduct, provides university procedures for effectively addressing misconduct, and offers educational responses to misconduct. The University of Wisconsin System is committed to respecting students' constitutional rights. Nothing in this chapter is intended to restrict students' constitutional rights, including rights of freedom of speech or to peaceably assemble with others.

UWS 17.02 Definitions. In this chapter:

- (1) "Chief administrative officer" means the chancellor of an institution or dean of a campus or their designees.
- (2) "Clear and convincing evidence" means information that would persuade a reasonable person to have a firm belief that a proposition is more likely true than not true. It is a higher standard of proof than "preponderance of the evidence."
- (3) "Days" means calendar days.
- (4) "Delivered" means sent by electronic means to the student's official university email address and, in addition, provided by any of the following methods:
 - (a) Given personally.
 - (b) Placed in the student's official university mailbox.
 - (c) Mailed by regular first class United States mail to the student's current address as maintained by the institution.
- (5) "Disciplinary file" means the record maintained by the student affairs officer responsible for student discipline.
- (6) "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 two years.

(7) "Disciplinary sanction" means any action listed in s. UWS 17.10(1) taken in response to student nonacademic misconduct.

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

(9) "Hearing examiner" means an individual, other than the investigating officer, appointed by the chief administrative officer in accordance with s. UWS 17.06(2) for the purpose of conducting a hearing under s. UWS 17.12.

(10) "Institution" means any university, or an organizational equivalent designated by the board, and the university of Wisconsin colleges.

(11) "Investigating officer" means an individual, or his or her designee, appointed by the chief administrative officer of each institution, to conduct investigations of nonacademic misconduct under this chapter.

(12) "Nonacademic misconduct hearing committee" or "committee" means the committee appointed pursuant to s. UWS 17.07 to conduct hearings under s. UWS 17.12.

(13) "Preponderance of the evidence" means information that would persuade a reasonable person that a proposition is more probably true than not true. It is a lower standard of proof than "clear and convincing evidence" and is the minimum standard for a finding of responsibility under this chapter.

(14) "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.

(15) "Student affairs officer" means the dean of students or student affairs officer designated by the chief administrative officer to coordinate disciplinary hearings and carry out duties described in this chapter.

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

(17) "University lands" means all real property owned by, leased by, or otherwise subject to the control of the board of regents of the University of Wisconsin System.

UWS 17.03 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 17.04 Notice to students. Each institution shall publish ch. UWS 17 on its website and shall make ch. UWS 17 and any institutional policies implementing ch. UWS 17 freely available to students through the website or other means.

UWS 17.05 Designation of investigating officer. The chief administrative officer of each institution shall designate an investigating officer or officers for allegations of student nonacademic misconduct. The investigating officer shall investigate student nonacademic misconduct and initiate procedures for nonacademic misconduct under s. UWS 17.11.

UWS 17.06 Nonacademic misconduct hearing examiner. (1) The chief administrative officer of each institution, in consultation with faculty, academic staff, and student representatives, shall adopt policies providing for the designation of a student nonacademic misconduct hearing examiner to fulfill the responsibilities of the nonacademic misconduct hearing examiner in this chapter.

(2) A hearing examiner shall be selected by the chief administrative officer from the faculty and staff of the institution, pursuant to the policies adopted under sub. (1).

UWS 17.07 Nonacademic misconduct hearing committee. (1) The chief administrative officer 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 to fulfill the responsibilities of the nonacademic misconduct hearing committee in this chapter.

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

UWS 17.08 Nonacademic misconduct occurring on or outside of university lands.

(1) MISCONDUCT ON UNIVERSITY LANDS. Except as provided in s. UWS 17.08(2), the provisions contained in this chapter shall apply to the student conduct described in s. UWS 17.09 that occurs on university lands or at university-sponsored events.

(2) MISCONDUCT OUTSIDE OF UNIVERSITY LANDS. The provisions contained in this chapter may apply to the student conduct described in s. UWS 17.09 that occurs outside of university lands only when, in the judgment of the investigating officer, the conduct adversely affects a substantial university interest. In determining whether the conduct adversely affects a substantial university interest, the investigating officer shall consider whether the conduct meets one or more of the following conditions:

(a) The conduct constitutes or would constitute a serious criminal offense, regardless of the existence of any criminal proceedings.

(b) The conduct indicates that the student presented or may present a danger or threat to the health or safety of himself, herself or others.

(c) The conduct demonstrates a pattern of behavior that seriously impairs the university's ability to fulfill its teaching, research, or public service missions.

UWS 17.09 Conduct subject to disciplinary action. In accordance with s. UWS 17.08, the university may discipline a student for engaging in, attempting to engage in, or assisting others to engage in any of the following types of nonacademic misconduct:

(1) DANGEROUS CONDUCT. Conduct that endangers or threatens the health or safety of oneself or another person.

(2) SEXUAL ASSAULT. Conduct defined in s. 940.225, Stats.

(3) STALKING. Conduct defined in s. 940.32, Stats.

(4) HARASSMENT. Conduct defined in s. 947.013, Stats.

(5) HAZING. Conduct defined in s. 948.51, Stats.

(6) ILLEGAL USE, POSSESSION, MANUFACTURE, OR DISTRIBUTION OF ALCOHOL OR CONTROLLED SUBSTANCES. Use, possession, manufacture, or distribution of alcoholic beverages or of marijuana, narcotics, or other controlled substances, except as expressly permitted by law or university policy.

(7) UNAUTHORIZED USE OF OR DAMAGE TO PROPERTY. Unauthorized possession of, use of, moving of, tampering with, damage to, or destruction of university property or the property of others.

(8) DISRUPTION OF UNIVERSITY-AUTHORIZED ACTIVITIES. Conduct that obstructs or impairs university-run or university-authorized activities, or that interferes with or impedes the ability of a person to participate in university-run or university-authorized activities.

(9) FORGERY OR FALSIFICATION. Unauthorized possession of or fraudulent creation, alteration, or misuse of any university or other governmental document, record, key, electronic device, or identification.

(10) MISUSE OF COMPUTING RESOURCES. Conduct that involves any of the following:

(a) Failure to comply with laws, license agreements, and contracts governing university computer network, software, and hardware use.

(b) Use of university computing resources for unauthorized commercial purposes or personal gain.

(c) Failure to protect a personal password or university-authorized account.

(d) Breach of computer security, invasion of privacy, or unauthorized access to university computing resources.

(11) FALSE STATEMENT OR REFUSAL TO COMPLY REGARDING A UNIVERSITY MATTER. Making a knowingly false oral or written statement to any

university employee or agent of the university regarding a university matter, or refusal to comply with a reasonable request on a university matter.

(12) VIOLATION OF CRIMINAL LAW. Conduct that constitutes a criminal offense as defined by state or federal law.

(13) SERIOUS AND REPEATED VIOLATIONS OF MUNICIPAL LAW. Serious and repeated off-campus violations of municipal law.

(14) VIOLATION OF CH. UWS 18. Conduct that violates ch. UWS 18, including, but not limited to, provisions regulating fire safety, theft, and dangerous weapons.

(15) VIOLATION OF UNIVERSITY RULES. Conduct that violates any published university rules, regulations, or policies, including provisions contained in university contracts with students.

(16) NONCOMPLIANCE WITH DISCIPLINARY SANCTIONS. Conduct that violates a sanction, requirement, or restriction imposed in connection with previous disciplinary action.

UWS 17.10 Disciplinary sanctions. (1) The disciplinary sanctions that may be imposed for nonacademic misconduct, in accordance with the procedures of ss. UWS 17.11 to 17.13, are any of the following:

- (a)** A written reprimand.
- (b)** Denial of specified university privileges.
- (c)** Payment of restitution.
- (d)** Educational or service sanctions, including community service.
- (e)** Disciplinary probation.
- (f)** Imposition of reasonable terms and conditions on continued student status.
- (g)** Removal from a course in progress.
- (h)** Enrollment restrictions on a course or program.
- (i)** Suspension.
- (j)** 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 termination 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 17.11 Disciplinary procedure. (1) 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 17.10(1).

(2) CONFERENCE WITH STUDENT. When the investigating officer concludes that proceedings under this section are warranted, the investigating officer shall promptly contact the student in person, by telephone, or by electronic mail to 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 basis 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.

(3) DETERMINATION BY THE INVESTIGATING OFFICER THAT NO DISCIPLINARY SANCTION IS WARRANTED. If, as a result of a discussion under sub. (2) or review of available information, 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.

(4) PROCESS FOLLOWING DETERMINATION BY THE INVESTIGATING OFFICER THAT NONACADEMIC MISCONDUCT OCCURRED.

(a) If, as a result of a discussion under sub. (2) or review of available information, the investigating officer determines that nonacademic misconduct did occur and that one or more of the disciplinary sanctions listed under s. UWS 17.10(1) should be recommended, the investigating officer shall prepare a written report which shall contain all of the following:

1. A description of the alleged misconduct.
2. A description of all information available to the university regarding the alleged misconduct. Such information shall be available to the student upon request, except as may be precluded by applicable state or federal law.
3. Specification of the sanction sought.
4. Notice of the student's right to a hearing.
5. A copy of this chapter and of the institutional procedures adopted to implement this section.

(b) The written report shall be delivered to the student.

(c) A student who receives a written report under this section has the right to a hearing under s. UWS 17.12 to contest the determination that nonacademic misconduct occurred, the choice of disciplinary sanctions, or both.

1. Where the disciplinary sanction sought is one of those listed in s. UWS 17.10(1)(a) to (g), and if the student desires a hearing, the student shall file a written request with the student affairs officer within 10 days of the date the written report is delivered to the student. 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 one of those listed in s. UWS 17.10(1)(h) to (j), 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 17.12 to schedule a hearing on the matter. A hearing shall be conducted unless the student waives, in writing, the right to such a hearing.

UWS 17.12 Hearing. (1) A student who requests a hearing, or for whom a hearing is scheduled under s. UWS 17.11(4)(c)2., shall have the right to decide whether the matter will be heard by a hearing examiner or a hearing committee.

(2) If a student requests a hearing under s. UWS 17.11(4)(c)1., or a hearing is required to be scheduled under s. UWS 17.11(4)(c)2., the student affairs officer shall take the necessary steps to convene the hearing and shall schedule it 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 hearing examiner or committee.

(3) No less than 5 days in advance of the hearing, the hearing examiner or 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 hearing examiner or committee by the investigating officer, including any additional available information of the type described in s. UWS 17.11(4)(a)2.

(4) The hearing shall be conducted in accordance with the following guidance and requirements:

(a) The hearing process shall further the educational purposes and reflect the university context of nonacademic misconduct proceedings. The process need not conform to state or federal rules of criminal or civil procedure, except as expressly provided in ch. UWS 17.

(b) The student shall have the right to question adverse witnesses, the right to present information and witnesses, the right to be heard on his or her own behalf, and the right to be accompanied by an advisor of the student's choice. The advisor may be a lawyer. In cases where the recommended disciplinary sanction is identified in s. UWS 17.10(1)(a) to (h), the advisor may counsel the student, but may not directly question adverse witnesses, present information or witnesses, or speak on behalf of the student except at the discretion of the hearing examiner or committee. In cases where the recommended disciplinary sanction is identified in s. UWS 17.10(1)(i) or (j), or where the student has been charged with a crime in connection with the same conduct for which the disciplinary sanction is sought, the advisor may question adverse witnesses, present information and witnesses, and speak on behalf of the student. In accordance with the educational

purposes of the hearing, the student is expected to respond on his or her own behalf to questions asked of him or her during the hearing.

(c) The hearing examiner or committee:

1. Shall admit information that has reasonable value in proving the facts, but may exclude immaterial, irrelevant, or unduly repetitious testimony.
2. Shall observe recognized legal privileges.
3. May take reasonable steps to maintain order, and to adopt procedures for the questioning of a witness appropriate to the circumstances of that witness's testimony, provided, however, whatever procedure is adopted, the student is allowed to effectively question the witness.

(d) The hearing examiner or 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. The student charged with misconduct may access the record, upon the student's request.

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

(f) A hearing examiner's or committee's finding of nonacademic misconduct shall be based on one of the following:

1. Clear and convincing evidence, when the sanction to be imposed is one of those listed in s. UWS 17.10(1)(h) to (j).
2. A preponderance of the evidence, when the sanction to be imposed is one of those listed in s. UWS 17.10(1)(a) to (g).
3. A preponderance of the evidence, regardless of the sanction to be imposed, in all cases of sexual harassment and sexual assault.

(g) The hearing examiner or committee may impose one or more of the disciplinary sanctions listed in s. UWS 17.10(1)(a) to (g) that differs from the recommendation of the investigating officer. Sanctions under s. UWS 17.10(1)(h) to (j) may not be imposed unless previously recommended by the investigating officer.

(h) The hearing shall be conducted by the hearing examiner or committee, and the university's case against the student shall be presented by the investigating officer or his or her designee.

(i) The decision of the hearing examiner or committee shall be prepared within 14 days of the hearing, and delivered to the student. The decision shall become final within 14 days of the date on the written decision, unless an appeal is taken under s. UWS 17.13.

(j) If a party fails to appear at a scheduled hearing and to proceed, the hearing examiner or committee may either dismiss the case or, based upon the information provided, find that the student committed the misconduct alleged.

(k) Disciplinary hearings are subject to the Wisconsin open meetings law and may be closed if the student whose case is being heard requests a closed hearing or if the hearing examiner or committee determines that it is necessary to hold a closed hearing, as permitted under the Wisconsin open meetings law. Deliberations of the committee shall be held in closed session, in accordance with s. 19.85, Stats. As such, proper notice and other applicable rules shall be followed.

UWS 17.13 Appeal to the chancellor. (1) Where the sanction prescribed by the hearing examiner or committee is one of those listed in s. UWS 17.10(1)(h) to (j), the student may appeal to the chief administrative officer within 14 days of the date of the written decision to review the decision of the hearing examiner or committee, based upon the record. In such a case, the chief administrative officer has 30 days from receipt of the student's appeal to respond and shall sustain the decision of the nonacademic misconduct hearing examiner or committee unless the chief administrative officer finds any of the following:

- (a)** The information in the record does not support the findings or decision of the hearing examiner or committee.
- (b)** Appropriate procedures were not followed by the nonacademic misconduct hearing examiner or committee and material prejudice to the student resulted.
- (c)** The decision was based on factors proscribed by state or federal law.

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

UWS 17.14 Discretionary appeal to the board of regents. Institutional decisions under ss. UWS 17.11 to 17.13 shall be final, except that the board of regents may, at its discretion, grant a review upon the record.

UWS 17.15 Settlement. The procedures set forth in this chapter allow the university and a student to enter into a settlement agreement regarding the alleged misconduct, after proper notice has been given. Any such agreement and its terms shall be in writing and signed by the student and the investigating officer or student affairs officer. The case is concluded when a copy of the signed agreement is delivered to the student.

UWS 17.16 Effect of discipline within the institution. A student who, at the time of commencement, is subject to a continuing disciplinary sanction under s. UWS 17.10(1) or unresolved disciplinary charges as a result of a report under s. UWS 17.11, shall not be awarded a degree during the pendency of the sanction or disciplinary proceeding.

UWS 17.17 Effect of suspension or expulsion within the university system. (1) Suspension or expulsion shall be systemwide in effect and shall be noted on an individual's transcript, with suspension noted only for the duration of the suspension period.

(2) A student who is suspended from one institution in the University of Wisconsin System may not enroll in another institution in the system until the suspension has expired by its own terms, except as provided in s. UWS 17.18.

(3) A student who is expelled from one institution in the University of Wisconsin System may not enroll in another institution in the system, except as provided in s. UWS 17.18.

(4) A person who is in a state of suspension or expulsion from the university under this chapter, or who leaves or withdraws from the university while under nonacademic misconduct charges under this chapter, may not be present on any campus without the written consent of the chief administrative officer of that campus.

(5) Upon completion of a suspension period, a student who is academically eligible may re-enroll in the institution which suspended him or her, provided all conditions from previous disciplinary sanctions have been met.

UWS 17.18 Petition for restoration of rights after suspension or expulsion. A student who has been suspended may petition to have his or her student status, rights, and privileges restored before the suspension has expired by its own terms under s. 17.17(2). A student who has been expelled may petition for the right to apply for readmission. The petition shall be in writing and directed to the chief administrative officer of the institution from which the student was suspended or expelled or of a different university of Wisconsin institution to which the student seeks admission. The chief administrative officer shall make the readmission decision.

17.19 Emergency suspension. (1) The chief administrative officer may impose an emergency suspension on a student, pending final institutional action on a report of nonacademic misconduct, in accordance with the procedures of this section.

(2) The chief administrative officer of each institution may impose an emergency suspension on a student when all of the following conditions are met:

- (a) The investigating officer has made a reasonable attempt to offer the student the opportunity for discussion, either in person or by telephone.
- (b) The investigating officer recommends a sanction of suspension or expulsion.
- (c) The chief administrative officer concludes, based on the available information, that the misconduct occurred and that the student's continued presence on campus meets one or more of the following conditions:
 1. Would constitute a potential for serious harm to the student.
 2. Would constitute a potential for serious harm to others.
 3. Would pose a threat of serious disruption of university-run or university-authorized activities.
 4. Would constitute a potential for serious damage to university facilities or property.

(3) If the chief administrative officer determines that an emergency suspension is warranted under sub. (2), he or she shall promptly have written notification of the emergency suspension delivered to the student. The chief administrative officer's

decision to impose an emergency suspension shall be effective immediately when delivered to the student and is final.

(4) Where an emergency suspension is imposed, the hearing on the underlying allegations of misconduct shall be held, either on or outside of university lands, within 21 days of the imposition of the emergency suspension, unless the student agrees to a later date.

(5) An emergency suspension imposed in accordance with this section shall be in effect until the decision in the hearing on the underlying charges pursuant to s. UWS 17.12 is rendered or the chief administrative officer rescinds the emergency suspension. In no case shall an emergency suspension remain in effect for longer than 30 days, unless the student agrees to a longer period.

(6) If the chief administrative officer determines that none of the conditions specified in sub. (2)(c) are present, but that misconduct may have occurred, the case shall proceed in accordance with s. UWS 17.12.

SECTION 2. UWS 18.02(1), (2), (3), (4), (5), (6) and (7) are renumbered 18.02(3), (7), (1), (2), (4), (5) and (6), and UWS 18.02(7), as renumbered, is amended to read:

UWS 18.02 Definitions. For purposes of this chapter:

~~(3)~~(1) “Board of regents” or “board” means the board of regents of the ~~university~~ University of Wisconsin System.

~~(4)~~(2) “Building” means any structure, including stadia, on university lands.

~~(1)~~(3) The “chief administrative officer” means the chief administrative officer of an institution or dean of a campus or their designees.

~~(5)~~(4) “Discharge pollutants into storm sewers” means placing pollutants or water containing pollutants into any storm sewer on or serving university lands.

~~(6)~~(5) “Discharge pollutants to storm water” means placing pollutants onto university lands so that they are carried by storm water to waters of the state.

~~(7)~~(6) “Pollutants” has the meaning described in s. 283.01 (13), Stats.

~~(2)~~(7) “~~Lands~~” “University lands” means all real property owned by, leased by, or otherwise subject to the control of the board of regents.

SECTION 3. UWS 18.04(5) is amended to read:

(5) The chief administrative officer may require the registration of all student, faculty, or staff motor vehicles or bicycles on university lands under said officer’s jurisdiction and may limit or prohibit their use in designated areas during designated hours. Any person

who violates institutional regulations promulgated under this subsection may be fined up to \$25.

SECTION 4. UWS 18.06 (title) is amended to read:

UWS 18.06 ~~Conduct on university lands.~~ **Protection of resources.**

SECTION 5. UWS 18.06(1)(a) and (b) are renumbered UWS 18.06(3)(a) and (b) and amended to read:

UWS 18.06(3) PROHIBITED DUMPING; PROHIBITED DISCHARGES TO STORM WATER. (a) No person may dump or deposit any garbage, waste, hazardous material, trash, debris, rubbish, brush, earth or other debris or fill into any university dumpster or garbage receptacle or on any university lands unless authorized by the chief administrative officer.

(b) No person may discharge pollutants to storm water or ~~into~~ storm sewers on or serving university lands, except where authorized by the chief administrative officer and in conformance with state law.

SECTION 6. UWS 18.06(2) is renumbered 18.06(1) and amended to read:

UWS 18.06(1) PROHIBITED ACTS; LAND. No person may remove any shrubs, vegetation, wood, timber, rocks, stone, earth, signs, fences, or other materials from university lands, unless authorized by the chief administrative officer.

SECTION 7. UWS 18.06(3) is renumbered UWS 18.06(2) and amended to read:

UWS 18.06(2) PROHIBITED ACTS; WILDLIFE. No person may remove, destroy, or molest any bird, animal or fish life within the boundaries of university lands except as authorized by the chief administrative officer or except when this provision conflicts with a special order of the department of natural resources.

SECTION 8. UWS 18.06(4) is renumbered UWS 18.12(8).

SECTION 9. UWS 18.06(5) is renumbered UWS 18.08(1), and UWS 18.08(1)(a), (b), (c), (d), (e), and (f), as renumbered, are amended to read:

UWS 18.08(1) ANIMALS. (a) The presence of dogs, cats, and other pets is prohibited in all university buildings and in arboretums at all times except as authorized by the chief administrative officer. ~~Dogs specially trained or being specially trained to lead blind or deaf persons or to provide support for mobility impaired persons, and wearing harnesses or leashes and special capes, shall be exempt from these provisions.~~ The chief administrative officer may also prohibit the presence of dogs, cats, and other pets on other designated university lands.

(b) The presence of dogs, cats and other pets shall be is prohibited on all university lands not described in par. (a) unless they animal are is on a leash under the control of and accompanied by a person which is physically controlled by the individual responsible for the animal, except as authorized by the chief administrative officer.

(c) The chief administrative officer may not grant the exceptions allowed under par. (a) and (b) in any outdoor area where food is being served or where animals are otherwise prohibited by signage.

(d) Any pet waste deposited on university lands shall be removed and properly disposed of by the individual responsible for the animal.

(e) Any pet individual found in violation of this subsection may be have the animal for which they are responsible impounded and its owner be subject to the penalty provisions in s. UWS 48.07 18.13.

(f) Dogs specially trained or being specially trained to lead blind or deaf persons or to provide support for mobility impaired persons, and wearing harnesses or leashes and special capes. This section does not apply to police and service animals when those animals are working.

SECTION 10. UWS 18.06(6) is renumbered UWS 18.07(3).

SECTION 11. UWS 18.06(7) is renumbered UWS 18.07(2).

SECTION 12. UWS 18.06(8) is renumbered UWS 18.08(3) and amended to read:

UWS 18.08(3) BICYCLES. No person may park or store his a bicycle in buildings, on sidewalks or driveways, or in motor vehicle parking spaces, except in areas designated for that purpose or in bicycle racks, or as authorized by university housing policies. Bicycles shall be parked so as not to obstruct free passage of vehicles and pedestrians. Bicycle riding is prohibited on university lands when and where the intent is to perform tricks or stunts and those tricks or stunts may result in injury to any person or cause damage to property.

SECTION 13. UWS 18.06(9) is renumbered UWS 18.07(1) and amended to read:

UWS 18.07(1) ~~CLIMBING; WALKING ON ROOF.~~ ACCESS TO ROOFS, SERVICE TUNNELS, AND MAINTENANCE FACILITIES PROHIBITED. No person may climb into, out of, or ~~on~~ onto any university buildings, service tunnels or maintenance ~~facility~~ facilities, or walk or climb ~~on upon~~ the roof of a any university building or roof, except when emergency access to a fire escape is necessary, ~~or~~ for required maintenance, or when authorized by the chief administrative officer.

SECTION 14. UWS 18.06(10) is renumbered UWS 18.10(3).

SECTION 15. UWS 18.06(11) is renumbered UWS 18.10(4), and UWS 18.10(4)(d), as renumbered, is amended to read:

UWS 18.10(4)(d) No person may interfere with, tamper with or remove, without authorization, any smoke detector, fire extinguisher, fire hose, fire hydrant or other fire fighting equipment.

SECTION 16. UWS 18.06(12) is repealed.

SECTION 17. UWS 18.06(13) is renumbered UWS 18.09(1), and UWS 18.09(1)(d), as renumbered, is amended to read:

UWS 18.09(1)(d) Notwithstanding s. UWS ~~18.09~~ 18.14, institutional regulations developed pursuant to this subsection shall be reported to the president of the system for review and approval.

SECTION 18. UWS 18.06(14) is renumbered UWS 18.07(4).

SECTION 19. UWS 18.06(15) is renumbered UWS 18.07(7).

SECTION 20. UWS 18.06(16) (a) 1., 2., 3., 4., 5., and 6., are renumbered UWS 18.11(8) (intro.), (a), (b), (c), (d), (e), and (f), and UWS 18.11(8) (intro.), (a), and (c) as renumbered, are amended to read:

UWS 18.11(8) SELLING, PEDDLING AND SOLICITING. No person may sell, peddle or solicit for the sale of goods, services, or contributions on any university lands except in the case of:

(a) ~~When the occupant of~~ Specific permission in advance from a specific university office; or the occupant of a university house, apartment, or dormitory room has given specific permission in advance residence hall for a person engaged in that activity to come to that particular office, house, apartment, or ~~dormitory room~~ residence hall for that purpose.

(c) ~~Hawking~~ Sales of newspapers and similar printed matter outside university buildings.

SECTION 21. UWS 18.06(16m) is renumbered UWS 18.11(9) and UWS 18.11(9)(c), as renumbered, is amended to read:

UWS 18.11(9)(c) Notwithstanding s. UWS ~~18.09~~ 18.14, institutional policies and procedures developed pursuant to this subsection shall be reported to the board of regents for approval.

SECTION 22. UWS 18.06(17) is renumbered UWS 18.08(9), and UWS 18.08(9) (title), and (a), as renumbered, are amended to read:

UWS 18.08(9) ~~SIGNS, POSTINGS AND SIGNAGE.~~ (a) No person may erect, post or attach any ~~signs notices~~, posters, pictures or any item of a similar nature in or on any building or upon other university lands except on regularly established bulletin boards, or as authorized by the provisions of this code or by the chief administrative officer.

SECTION 23. UWS 18.06(18) is renumbered UWS 18.08(11)(b), and UWS 18.08(11)(b), as renumbered, is amended to read:

UWS 18.08(11)(b) No person may smoke in any nonresidential university building except in those areas designated for that purpose.

SECTION 24. UWS 18.06(19) is renumbered UWS 18.08(10).

SECTION 25. UWS 18.06(20) is renumbered UWS 18.07(6) and amended to read:

UWS 18.07(6) RESTRICTED USE OF STUDENT CENTERS OR UNIONS. No person, except members of the student center or union, university faculty and staff, invited guests, and university-sponsored conference groups, may use student center or union buildings and union-grounds except on occasions when, and in those areas where, the buildings or grounds are open to the general public.

SECTION 26. UWS 18.06(21) is renumbered UWS 18.11(6) and amended to read:

UWS 18.11(6)(a) University buildings and the university-authorized activities that occur therein are primarily dedicated to the support of the university mission of teaching, research and service. No person may be present in any class, lecture, laboratory period, orientation session, examination, or other instructional session or in any room, office, or laboratory university building if his or her presence or behavior interferes with this purpose or with the university's administrative operations, is in violation of a university policy, rule, regulation or any other provision of this chapter, or is without the consent of an authorized university official or faculty member.

(b) ~~A person shall be deemed without consent~~ Persons present in any class, lecture, laboratory ~~period~~, orientation ~~session~~, examination, or other instructional session ~~as prohibited by par. (a), if: 1) such person is not then shall be enrolled and in good standing as a member of the instructional session or 2) such person refuses to provide identification and refuses to leave such session upon request of a member of the shall have the consent of an authorized university administration official or faculty member or other person in charge thereof to be considered legally present.~~

SECTION 27. UWS 18.06(22)(a), (b), and (c) are renumbered UWS 18.11(7)(a), (b), and (c), and UWS 18.11(7)(a) is amended to read:

UWS 18.11(7)(a) No person, who is in a state of suspension or expulsion from the university under ch. UWS 17, or who takes leave or resigns under charges after being

charged by the university under ch. UWS 17, may enter the university lands of any campus institution without the written consent of the chief administrative officer.

SECTION 28. UWS 18.06(22)(d) is renumbered UWS 18.11(7)(f).

SECTION 29. UWS 18.06(23) is renumbered UWS 18.11(4).

SECTION 30. UWS 18.06(24) is renumbered UWS 18.07(5).

SECTION 31. UWS 18.06(25) is renumbered UWS 18.11(5), and UWS 18.11(5)(a)1., as renumbered, is amended to read:

UWS 18.11(5)(a)1. No person may use sound-amplifying equipment on any lands without the permission of the chief administrative officer, except as provided in par. ~~(e)~~ (b).

SECTION 32. UWS 18.06(26) is renumbered UWS 18.10(2).

SECTION 33. UWS 18.06(27) is renumbered UWS 18.10(9).

SECTION 34. UWS 18.06(28) is renumbered UWS 18.08(12), and UWS 18.08(12)(a), as renumbered, is amended to read:

UWS 18.08(11)(a) Every ticket or other evidence of the right of entry to any amusement, game, contest, exhibition, event, or performance given by or under the auspices of the ~~university~~ University of Wisconsin ~~system~~ System, or an institution or center of the ~~university~~ University of Wisconsin ~~system~~ System, shall be considered a revocable license to the person to whom the ticket has been issued and shall be transferable only on the terms and conditions prescribed on the ticket or other evidence of the right of entry.

SECTION 35. UWS 18.06(29) is renumbered UWS 18.10(8), and amended to read:

UWS 18.10(8) ~~SKATEBOARDS, ROLLER SKATES AND ROLLER BLADES PLAY VEHICLES~~. No person may use a skateboard, roller skates, ~~or use~~ roller blades, in-line skates, or any ~~other~~ similar wheeled devices, a toboggan, or a sled ~~in or anywhere on university buildings, or on sidewalks, roadways or parking areas on university lands, except in areas as designated for this purpose~~ by the chief administrative officer.

SECTION 36. UWS 18.06(30) is renumbered UWS 18.11(2).

SECTION 37. UWS 18.06(31)(a) and (b) are renumbered 18.12(5)(a) and (c).

SECTION 38. UWS 18.06(32) is renumbered UWS 18.08(5), and UWS 18.08(5)(b) as renumbered is amended to read:

UWS 18.08(5)(b) No person may knowingly present a false, altered or duplicate university identification card with the intent that such card be relied upon by university employees, ~~or university agents, or state or local officials~~ in connection with obtaining ~~university~~ services, privileges or goods.

SECTION 39. UWS 18.06(33) is renumbered UWS 18.11(3).

SECTION 40. UWS 18.06(34)(a) and (b) are renumbered UWS 18.10(7)(a) and (b) and amended to read:

UWS 18.10(7) RESISTING OR OBSTRUCTING ~~PEACE~~ POLICE OFFICERS. (a) No person may knowingly resist or obstruct a university ~~peace~~ police officer while that officer is doing any act in an official capacity and with lawful authority.

(b) In this subsection, "obstruct" includes without limitation knowingly giving false information or knowingly placing physical evidence with the intent to mislead a university ~~peace~~ police officer in the performance of his or her duty.

SECTION 41. UWS 18.06(35) is renumbered UWS 18.09(2).

SECTION 42. UWS 18.06(36) is renumbered UWS 18.09(3).

SECTION 43. UWS 18.06(37) is renumbered UWS 18.12(3), and UWS 18.12(3)(a), as renumbered, is amended to read:

UWS 18.12(3)(a) No person may issue any check or other order for the payment of money ~~less than \$1000~~ in an amount not more than \$2,500 which, at the time of issuance, he or she intends shall not be paid.

SECTION 44. UWS 18.06(38)(a) and (b) are renumbered UWS 18.12(2)(a) and (b).

SECTION 45. UWS 18.06(39) is renumbered UWS 18.12(7).

SECTION 46. UWS 18.06(40) is renumbered UWS 18.10(6).

SECTION 47. UWS 18.06(41) is renumbered UWS 18.12(6), and UWS 18.12(6)(b), as renumbered, is amended to read:

UWS 18.12(6)(b) No person may intentionally take and carry away, use, transfer, conceal, or retain possession of movable property of another with a value of at least \$100 but not more than ~~\$500~~ 1,000, without consent and with the intent to deprive the owner permanently of such property.

SECTION 48. UWS 18.06(42) is renumbered UWS 18.10(1).

SECTION 49. UWS 18.06(43) is renumbered UWS 18.10(5) and amended to read:

UWS 18.10(5) OPERATION OF A MOTOR VEHICLE OFF ROADWAYS. No person shall operate an unauthorized motor vehicle or motorized device, including motorcycles, mopeds, motor scooters and self-balancing transportation devices, off designated roadways, paved or unpaved, or on service roads or pedestrian paths, regardless of the surface, on university lands, ~~in a manner that may cause damage to property or endanger the safety of any person.~~ This subsection does not apply to motorized wheelchairs or other mobility devices which have the primary design function of assisting the physically challenged.

SECTION 50. UWS 18.06(44) is renumbered UWS 18.08(8).

SECTION 51. UWS 18.06(45) is renumbered UWS 18.12(1).

SECTION 52. UWS 18.06(46) is renumbered UWS 18.11(1).

SECTION 53. UWS 18.06(47) is renumbered UWS 18.08(4).

SECTION 54. UWS 18.06(48) is renumbered UWS 18.08(7), and UWS 18.08(7)(b), as renumbered, is amended to read:

UWS 18.08(7)(b) This subsection shall not apply to minors returning home from functions authorized by any ~~public or parochial school or church~~ religious organization and carrying proof of identification on their persons, or to currently enrolled university students.

SECTION 55. UWS 18.06(49) is renumbered UWS 18.08(2).

SECTION 56. UWS 18.06(50) is renumbered UWS 18.12(4).

SECTION 57. UWS 18.07 is renumbered UWS 18.13 and amended to read:

UWS 18.13. Unless otherwise specified, the penalty for violating any of the rules in ss. UWS 18.06 to 18.12 shall be a forfeiture of not more than \$500, as provided in s. 36.11(1)(c), Stats.

SECTION 58. UWS 18.09 is renumbered UWS 18.14 and amended to read:

UWS 18.14. Institutional regulations promulgated under ss. UWS 18.04 to 18.12 shall take effect when filed with the secretary of the board.

SECTION 59. UWS 18.10 is renumbered UWS.18.15, and UWS 18.15(title), 18.15(1), and 18.15(2), as renumbered, are amended to read:

UWS 18.15. ADDITIONAL STATUTORY PENALTY PROVISIONS REGULATING CONDUCT ON UNIVERSITY LANDS. (1) CONTROLLED SUBSTANCES. The use

or possession of controlled substances as defined in s. 961.01(4), Stats., is prohibited on all university property with the specific exemptions set forth in ch. 961, Stats., and as permitted under s. 961.34, Stats. The penalty provisions of ch. 961, Stats., and chs. UWS 17 and 18 may apply to violations occurring on university lands.

~~(2) PERSONS PROHIBITED FROM ENTERING CAMPUSES. Student convicted of dangerous and obstructive crime.~~ STUDENT CONVICTED OF DANGEROUS AND OBSTRUCTIVE CRIME. Section 36.35(3), Stats., provides: “Any person who is convicted of any crime involving danger to property or persons as a result of conduct by him which obstructs or seriously impairs activities run or authorized by an institution and who, as a result of such conduct, is in a state of suspension or expulsion from the institution, and who enters property of that institution without permission of the chief administrative officer of the institution within 2 years, may for each such offense be fined not more than \$500 or imprisoned not more than 6 months, or both.”

SECTION 60. UWS 18.07(title) is created to read:

UWS 18.07. Use of Campus Resources.

SECTION 61. UWS 18.08(title) is created to read:

UWS 18.08. Personal Conduct Prohibitions.

SECTION 62. UWS 18.08(6) is created to read

UWS 18.08(6) PHYSICAL SECURITY COMPLIANCE. (a) No person may ignore, bypass, circumvent, damage, interfere with, or attempt to deceive by fraudulent means, any university authorized security measure or monitoring device, whether temporary or permanent, that is intended to prevent or limit access to, or enhance the security of, university lands, events, facilities or portions thereof.

(b) No person may duplicate, falsify or fraudulently obtain a university key or access control device, or make any unauthorized attempt to accomplish the same.

(c) No person who is authorized to possess a university key or access control device may transfer a university key or access control device to an unauthorized person, nor may any unauthorized person be in possession of a university key or access control device.

(d) Any university key or access control device in the possession of an unauthorized person may be confiscated by any authorized university official.

SECTION 63. UWS 18.08(9)(b) is created to read:

(b) No person may fail to comply with a sign that reasonably conveys prohibited behavior and that has been approved and posted on university buildings or lands in compliance

with the university's formal process for posting signs. This subsection does not apply to traffic related offenses (ch. 346, Stats.).

SECTION 64. UWS 18.08(11)(a) is created to read:

UWS 18.08(11) SMOKING. (a) No person may smoke in any residence hall or other university-owned or university-leased student housing or in any location that is 25 feet or less from such residence hall or housing.

SECTION 65. UWS 18.09(title) is created to read

UWS 18.09. **Alcohol and drug prohibitions.**

SECTION 66. UWS 18.10 (title) is created to read:

UWS 18.10. **Offenses against public safety.**

SECTION 67. UWS 18.11(title) is created to read:

UWS 18.11. **Offenses against public peace and order.**

SECTION 68. UWS 18.11(7)(d) and (e) are created to read:

UWS 18.11(7)(d) No person who has been determined to have committed serious or repeated violations of ss. UWS 18.06 to 18.12 and to whom the chief administrative officer has issued a written order prohibiting entry on university lands may enter the university lands of that institution.

(e) The provisions of this section in no way limit the chief administrative officer from issuing a written order barring any person from entering the university lands of that institution in accordance with the chief administrative officer's responsibility for the health, safety, and welfare of the university.

SECTION 69. UWS 18.12(title) is created to read:

UWS 18.12. **Property Offenses.**

SECTION 70. UWS 18.12(1)(e) is created to read:

UWS 18.12(1)(e) Cause an interruption in service by submitting a message or multiple messages to a computer, computer program, computer system, or computer network that exceeds the processing capacity of the computer, computer program, computer system, or computer network.

SECTION 71. UWS 18.12(2)(c) is created to read:

UWS 18.12(2)(c) In this subsection, prima facie evidence that the person intentionally absconded without paying for the food, lodging or other service or intentionally defrauded the university or its employees or agents has the meaning and includes the items of proof set forth in s. 943.21(2), Stats.

SECTION 72. UWS 18.12(5)(b) and (d) are created to read:

UWS 18.12(5)(b) No person may intentionally remove a theft detection device from merchandise, or use a theft detection shielding device, without the merchant's consent and with intent to deprive the merchant permanently of possession, or the full purchase price of the merchandise.

(d) In this subsection, "theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant, and "theft detection shielding device" means any laminated or coated bag or device designed to shield such merchandise from detection by an electronic or magnetic theft alarm sensor.

SECTION 73. This rule first applies to conduct occurring on or after the effective date of this rule.

SECTION 74. EFFECTIVE DATE. 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: _____

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