

1 **Part C. Dismissal of Faculty in Special Cases**

2 **FAC 8.C.1. UWS 7 {Procedures for Dismissal of Faculty in Special Cases} of the Wisconsin Admin-** 3 **istrative Code, Rules of the Board of Regents.**

4 **UWS 7.01 Declaration of policy.**

5 University faculty members are responsible for advancing the university's missions of teaching, research
6 and public service. The fulfillment of these missions requires public trust in the integrity of the institution
7 and in all members of the university community. The university's effectiveness, credibility, and ability to
8 maintain public trust are undermined by criminal activity that poses a substantial risk to the safety of oth-
9 ers, that seriously impairs the university's ability to fulfill its missions, or that seriously impairs the faculty
10 member's fitness or ability to fulfill his or her duties. Situations involving such serious criminal misconduct
11 by faculty members must be addressed and resolved promptly to ensure that public trust is maintained
12 and that the university is able to advance its missions. The board of regents therefore adopts the proce-
13 dures in this chapter for identifying and responding to those instances in which a faculty member has en-
14 gaged in serious criminal misconduct.

15 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

16 **UWS 7.02 Serious criminal misconduct.**

17 (1) In this chapter, "serious criminal misconduct" means:

18 (a) Pleading guilty or no contest to, or being convicted of a felony, in state or federal court, where
19 one or more of the conditions in par. (b), (c), (d) or (e) are present, and the felony involves
20 any of the following:

- 21 1. Causing serious physical injury to another person.
- 22 2. Creating a serious danger to the personal safety of another person.
- 23 3. Sexual assault.
- 24 4. Theft, fraud or embezzlement.
- 25 5. Criminal damage to property.
- 26 6. Stalking or harassment.

27 (b) A substantial risk to the safety of members of the university community or others is posed.

28 (c) The university's ability, or the ability of the faculty member's colleagues, to fulfill teaching, re-
29 search or public service missions is seriously impaired.

30 (d) The faculty member's fitness or ability to fulfill the duties of his or her position is seriously im-
31 paired.

32 (e) The opportunity of students to learn, do research, or engage in public service is seriously im-
33 paired.

34 (2) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the prin-
35 ciples of academic freedom, shall not constitute serious criminal misconduct.

36 (3) Except as otherwise expressly provided, a faculty member who has engaged in serious criminal
37 misconduct shall be subject to the procedures set forth in ss. UWS 7.03 to 7.06.

38 (4) Any act required or permitted by ss. UWS 7.03 to 7.06 be done by the chancellor may be dele-
39 gated to the provost another designee pursuant to institutional policies approved the board of re-
40 gents under s. UWS 2.02.

41 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

42 **UWS 7.025 Definition.**

43 In this chapter, "consulting" means thoroughly reviewing and discussing the relevant facts and discre-
44 tionary issues.

45 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

1 **UWS 7.03 Dismissal for cause.**

- 2 (1) Any faculty member having tenure may be dismissed only by the board and only for just cause
3 and only after due notice and hearing. Any faculty member having a probationary appointment
4 may be dismissed prior to the end of his or her term of appointment only by the board and only for
5 just cause and only after due notice and hearing.
- 6 (2) Just cause for dismissal includes, but is not limited to, serious criminal misconduct, as defined in
7 s. UWS 7.02.

8 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

9 **UWS 7.04 Reporting responsibility.**

10 Any faculty member who is charged with, pleads guilty or no contest to, or is convicted of a felony of a
11 type listed in s. UWS 7.02 (1) (a), in state or federal court, shall immediately report that fact to the
12 chancellor.

13 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

14 **UWS 7.05 Expedited process.**

- 15 (1) Whenever the chancellor of an institution within the University of Wisconsin System receives a
16 report under s. UWS 7.04 or other credible information that a faculty member has pleaded guilty
17 or no contest to, or has been convicted of a felony of a type listed in s. UWS 7.02 (1) (a), in state
18 or federal court, the chancellor shall:
- 19 (a) Within 3 working days of receipt of the report or information, inform the faculty member of its
20 receipt and, after consulting with appropriate institutional governance representatives, appoint
21 an investigator to investigate the report or information and to advise the chancellor as to
22 whether to proceed under this section or ch. UWS 4.
- 23 (b) Upon appointing an investigator and notifying the faculty member, afford the faculty member
24 3 working days in which to request that the investigator be disqualified on grounds of lack of
25 impartiality or other cause. In the event that the chancellor determines that a request for dis-
26 qualification should be granted, the chancellor shall, within 2 working days of the determina-
27 tion, appoint a different investigator. The faculty member shall have the opportunity to request
28 that any second or subsequent investigators be disqualified on grounds of lack of impartiality
29 or other cause.
- 30 (2) The investigator shall complete and file a report with the chancellor not later than 10 working days
31 following the investigator's appointment.
- 32 (3) Within 3 working days of receipt of the investigator's report, the chancellor shall consult with ap-
33 propriate institutional governance representatives and decide whether to seek dismissal of the fa-
34 culty member pursuant to this chapter, to seek dismissal of the faculty member pursuant to ch.
35 UWS 4, to seek an alternative disciplinary sanction, or to discontinue the proceedings. The
36 charges shall be served on the faculty member in the manner specified in s. UWS 4.02 (3).
- 37 (a) If the chancellor decides to seek dismissal of the faculty member pursuant to this chapter, the
38 chancellor shall file charges within 2 working days of reaching the decision.
- 39 (b) If the chancellor decides to seek dismissal of the faculty member pursuant to ch. UWS 4, the
40 chancellor shall file charges and proceed in accordance with the provisions of that chapter
41 and implementing institutional policies. If, during the course of such proceedings under ch.
42 UWS 4, the chancellor receives a report under s. UWS 7.04 or other credible information that
43 the faculty member has pleaded guilty or no contest to or has been convicted of a felony of a
44 type listed in s. UWS 7.02 (1) (a), and one or more of the conditions listed in s. UWS 7.02 (1)
45 (b) through (e) are present, the chancellor may, at that point, elect to follow the procedures
46 for dismissal pursuant to this chapter.
- 47 (c) If the chancellor decides to seek an alternative disciplinary sanction, the procedures under
48 ch. UWS 6, and implementing institutional policies, shall be followed.
- 49 (4) If charges seeking dismissal are filed under sub. (3) (a), the faculty member shall be afforded a
50 hearing before the institutional standing committee charged with hearing dismissal cases and

1 making recommendations under s. UWS 4.03. The hearing shall provide the procedural guaran-
2 tees enumerated under ss. UWS 4.05 to 4.06, except that the hearing shall be concluded, and
3 written findings and a recommendation to the chancellor shall be prepared, within 15 working
4 days of the filing of charges.

5 (5) (a) Within 3 working days of receipt of the findings and recommendation of the committee under
6 sub. (4), the chancellor shall prepare a written recommendation on the matter.

7 (b) If the recommendation is for dismissal, the chancellor shall transmit it to the board for review.

8 (c) Disciplinary action other than dismissal may be taken by the chancellor, whose decision shall
9 be final, unless the board at its option grants a review on the record at the request of the fa-
10 culty member.

11 (6) Upon receipt of the chancellor's recommendation, the full board shall review the record before the
12 institutional hearing committee, and shall offer an opportunity for filing exceptions to the recom-
13 mendation, and for oral argument. The full board shall issue its decision on the matter within 15
14 working days of receipt of the chancellor's recommendation.

15 (7) If a faculty member whose dismissal is sought under sub. (3) (a) does not proceed with the hear-
16 ing before the institutional hearing committee as provided in sub. (4), the board shall take appro-
17 priate action within 10 working days of receipt of the statement of charges and the recommenda-
18 tion of the chancellor.

19 (8) The burden of proving just cause in this chapter shall be clear and convincing evidence.

20 (9) The chair of the faculty hearing body, subject to the approval of the chancellor, may extend the
21 time limits set forth in this section if the parties are unable to obtain, in a timely manner, relevant
22 and material testimony, physical evidence or records, or where due process otherwise requires.

23 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

24 **UWS 7.06 Temporary suspension without pay.**

25 (1) The chancellor, after consulting with appropriate faculty governance representatives, may sus-
26 pend a faculty member from duties without pay pending the final decision as to his or her dismis-
27 sal where:

28 (a) The faculty member has been charged with a felony of a type listed in s. UWS 7.02 (1) (a)
29 and the chancellor, after following the provisions of s. UWS 7.05 (1) through (3), finds, in ad-
30 dition, that there is a substantial likelihood 1) that one or more of the conditions listed in s.
31 UWS 7.02 (1) (b) through (e) are present, and 2) that the faculty member has engaged in the
32 conduct as alleged; or

33 (b) The faculty member is unable to report for work due to incarceration, conditions of bail or sim-
34 ilar cause; or

35 (c) The faculty member has pleaded guilty or no contest to or been convicted of a felony of a
36 type listed in s. UWS 7.02 (1) (a) and one or more of the conditions listed in s. UWS 7.02 (1)
37 (b) through (e) are present.

38 (2) If the chancellor finds that the conditions in sub. (1) are present, he or she shall immediately notify
39 the faculty member, in writing, of the intent to impose a suspension without pay, and shall, within
40 2 working days, provide the faculty member with an opportunity to be heard with regard to the
41 matter. The faculty member may be represented by counsel or another at this meeting.

42 (3) If, after affording the faculty member the opportunity to be heard, the chancellor determines to
43 suspend without pay, the chancellor shall inform the faculty member of the suspension, in writing.
44 The chancellor's decision to suspend without pay under this section shall be final, except that:

45 (a) If the chancellor later determines that the faculty member should not be dismissed, the chan-
46 cellor may discontinue the proceedings, or may recommend a lesser penalty to the board,
47 and, except as provided in par. (c), shall order the payment of back pay for any period of the
48 suspension for which the faculty member was willing and able to report for work.

- 1 (b) If the board later determines that the faculty member should not be dismissed, the board may
2 order a lesser penalty and shall order the payment of back pay for any period of the suspen-
3 sion for which the faculty member was willing and able to report for work.
- 4 (c) If the chancellor or board later determines, under par. (a) or (b), to recommend or impose as
5 a lesser penalty the suspension of the faculty member without pay, then any period of sus-
6 pension without pay so recommended or ordered shall be offset by the period of any suspen-
7 sion without pay actually served by the faculty member.
- 8 (4) If, after affording the faculty member the opportunity to be heard, the chancellor determines that
9 the conditions in sub. (1) are not present or that a suspension without pay is otherwise not war-
10 ranted, the provisions of s. UWS 4.09 shall apply.

11 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.