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Chapter UWS 17

STUDENT NONACADEMIC DISCIPLINARY PROCEDURES

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Note: See ch. UWS 14 for student academic disciplinary procedures.

Note: Chapter UWS 17 as it existed on August 31, 1996 was repealed and a new chapter UWS 17 was created effective September 1, 1996. **Chapter UWS 17 as it existed on August 31, 2009, was repealed and a new chapter UWS 17 was created effective September 1, 2009.**

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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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).

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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

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the imposition of a disciplinary sanction could result in disqualification of a student for financial aid.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

UWS 17.11 Disciplinary procedure. (1) PROCESS. 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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09; correction to (1) (title) made under s. 13.92 (4) (b) 2., Stats., Register August 2009 No. 644.

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).

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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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

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. UWS 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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.

UWS 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.

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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.

History: CR 08−099: cr. Register August 2009 No. 644, eff. 9−1−09.