

Chapter UWS 17

STUDENT NONACADEMIC DISCIPLINARY PROCEDURES

Subchapter I — General

UWS 17.01	Policy statement.
UWS 17.02	Definitions.
UWS 17.03	Consistent institutional policies.
UWS 17.04	Notice to students.
UWS 17.05	Designation of investigating officer.
UWS 17.06	Nonacademic misconduct hearing examiner.
UWS 17.07	Nonacademic misconduct hearing committee.
UWS 17.08	Nonacademic misconduct occurring on or outside of university lands.
UWS 17.085	Disciplinary sanctions.

Subchapter II — Procedures for Student Nonacademic Discipline in Nonsexual Misconduct Cases

UWS 17.09	Conduct subject to disciplinary action.
UWS 17.11	Disciplinary procedure.
UWS 17.12	Hearing.
UWS 17.13	Appeal to the chancellor.

UWS 17.14	Discretionary appeal to the Board of Regents.
UWS 17.15	Settlement.

Subchapter III — Procedures for Student Nonacademic Discipline in Sexual Misconduct Cases

UWS 17.151	Sexual misconduct subject to disciplinary action under ss. UWS 17.152 to 17.156 .
UWS 17.152	Sexual misconduct disciplinary procedure.
UWS 17.153	Sexual misconduct hearing.
UWS 17.154	Appeal to the chancellor for sexual misconduct.
UWS 17.155	Discretionary appeal to the Board of Regents for sexual misconduct.
UWS 17.156	Settlement for sexual misconduct.

Subchapter IV — Effect of Discipline, Petitions for Restoration, and Emergency Suspension

UWS 17.16	Effect of discipline within the institution.
UWS 17.17	Effect of suspension or expulsion within the university system.
UWS 17.18	Petition for restoration of rights after suspension or expulsion.
UWS 17.19	Emergency suspension.

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Note: Chapter UWS 17 as it existed on August 31, 1996 was repealed and a new chapter UWS 17 was created effective September 1, 1996. Chapter UWS 17 as it existed on August 31, 2009, was repealed and a new chapter UWS 17 was created effective September 1, 2009.

Subchapter I — General

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 the chancellor's 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."

(2m) "Complainant" means any individual who is alleged to be the subject of sexual misconduct, as defined in s. **UWS 17.151**.

(2r) "Consent" means words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to engage in sexual activity or other activity referenced in the definitions of sexual assault and sexual exploitation in s. **UWS 17.151**. A person is unable to give consent if the person is in a state of incapacitation because of drugs, alcohol, physical or intellectual disability, or unconsciousness.

(3) "Days" means calendar days.

(4) "Delivered" means sent by electronic means to the student's official university email address and, in addition, provided 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 on the condition that the student complies with specified standards of conduct, other requirements or restrictions on privileges, for a specified period of time, not to exceed two years.
- (7) "Disciplinary (2009-01-01) 182key 1-96738.500 1

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 respondent.

(c) A respondent 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 17.085 (1) (a) to (g), and if the respondent desires a hearing, the respondent shall file a written request with the student affairs officer within 10 days of the date the written report is delivered to the respondent. If the respondent 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 17.085 (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 respondent 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; CR 15-060: am. (2), (3), (4) (a) 2., 4., (b), (c) Register June 2016 No. 726, eff. 7-1-16; CR 20-062: am. (1) to (3), (4) (a) (intro.), 2., (b), (c) 1., 2. Register May 2021 No. 785, eff. 6-1-21.

UWS 17.12 Hearing. (1) A respondent who requests a hearing, or for whom a hearing is scheduled under s. UWS 17.11 (4) (c) 2., for conduct defined in s. UWS 17.09, shall have the right to decide whether the matter shall be heard by a hearing examiner or a hearing committee.

(2) If a respondent 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 respondent 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 respondent 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 respondent shall have the right to question adverse witnesses, the right to present information and witnesses, the right to be heard on the respondent's own behalf, and the right to be accompanied by an advisor of the respondent's choice. The advisor may be a lawyer. In cases wherj ET Q9ndeBT Twdisci

ten decision to review the decision of the hearing examiner or committee, based upon the record.

(3) The chief administrative officer has 30 days from receipt of an appeal to respond and shall sustain the decision unless the chief administrative officer finds any of the following:

(a) The information in the record does not support the findings or decision.

(b) Appropriate procedures were not followed which resulted in material prejudice to the respondent.

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

(4) If the chief administrative officer makes a finding under sub. (3), the chief administrative officer may return the matter for consideration, or may invoke an appropriate remedy of the chief administrative officer's own. The chief administrative officer's decision shall be communicated to the respondent.

History: CR 08-099: cr. Register August 2009 No. 644, eff. 9-1-09; CR 15-060: renum. (1) (intro.) to (1) and am., r. (1) (a), (b), (c), r. and recr. (2), cr. (3), (4) Register June 2016 No. 726, eff. 7-1-16; correction in (2) (a), (b) under ss. 13.92 (4) (b) 7. and 35.17, Stats., Register June 2016 No. 726; CR 20-062: am. (1), r. (2), am. (3) (b), (4) Register May 2021 No. 785, eff. 6-1-21.

UWS 17.14 Discretionary appeal to the Board of Regents. For conduct defined in s. UWS 17.09, 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, upon written request submitted by the respondent within 14 days of the final institutional decision.

History: CR 08-099: cr. Register August 2009 No. 644, eff. 9-1-09; 2015 Wis. Act 330 s. 20: am. Register April 2016 No. 724, eff. 5-1-16; CR 15-060: am. Register June 2016 No. 726, eff. 7-1-16; CR 20-062: am. Register May 2021 No. 785, eff. 6-1-21.

UWS 17.15 Settlement. For conduct defined in s. UWS 17.09, the procedures set forth in this chapter allow the university and a respondent 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 respondent and the investigating officer or student affairs officer. The case is concluded when a copy of the signed agreement is delivered to the respondent.

History: CR 08-099: cr. Register August 2009 No. 644, eff. 9-1-09; CR 15-060: am. Register June 2016 No. 726, eff. 7-1-16; CR 20-062: am. Register May 2021 No. 785, eff. 6-1-21.

Subchapter III — Procedures for Student Nonacademic Discipline in Sexual Misconduct Cases

UWS 17.151 Sexual misconduct subject to disciplinary action under ss. UWS 17.152 to 17.156. 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. Sexual misconduct, as defined in this section, shall use the disciplinary procedure, hearing, appeal, and settlement processes detailed in ss. UWS 17.152 to 17.156.

(1) **SEXUAL HARASSMENT.** Conduct on the basis of sex that satisfies any of the following:

(a) Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in an education program or activity of the university that when using the legal "reasonable person" standard, is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity.

(b) Unwelcome conduct of a sexual nature directed towards an individual that, when using the legal "reasonable person" standard, is so severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in a university sponsored or supported activity.

(2) **SEXUAL ASSAULT.** An offense that meets any of the following definitions:

(a) **Rape:** The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.

(b) **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental incapacity.

(c) **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law as per s. 944.06, Stats.

(d) **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent as per s. 948.02, Stats.

(3) **DATING VIOLENCE.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(4) **DOMESTIC VIOLENCE.** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Wisconsin, or by any other person against an adult or youth individual who is protected from that person's acts under the domestic or family violence laws of Wisconsin as per ss. 813.12 (1) (am) and 968.075, Stats.

(5) **STALKING.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

(6) **SEXUAL EXPLOITATION.** Attempting, taking or threatening to take nonconsensual sexual advantage of another person. Examples include:

(a) Engaging in any of the following conduct without the knowledge and consent of all participants:

1. Observing, recording, or photographing private body parts or sexual activity of one or more complainants.

2. Allowing another person to observe, record, or photograph sexual activity or private body parts of one or more complainants.

3. Otherwise distributing recordings, photographs, or other images of the same of one or more complainants.

(b) Masturbating, touching one's genitals, or exposing one's genitals in complainant's presence, including more complainants.

2. Other information of a sexual nature, including sexual history or sexual orientation.

History: CR 20-062: cr. Register May 2021 No. 785, eff. 6-1-21; correction in (title) made under s. 13.92 (4) (b) 2., Stats., and correction in (intro.) made under s. 13.92 (4) (b) 7., Stats., Register May 2021 No. 785.

UWS 17.152 Sexual misconduct 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 17.085 (1), for sexual misconduct defined in s. UWS 17.151, and conduct described in s. UWS 17.09 may be consolidated with sexual misconduct charges pursuant to this section and consistent with s. UWS 17.08. When responding to sexual misconduct, the university may take the following actions:

(a) The university may consolidate disciplinary procedures as to allegations of sexual misconduct, as defined in s. UWS 17.151, against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

(b) In consultation with the complainant, the university may choose to address allegations of sexual misconduct with non-disciplinary measures outside the procedures of this chapter. Non-disciplinary measures may include supportive measures and protective measures for complainant, which may or may not involve the respondent.

(2) TITLE IX MISCONDUCT. Either a complainant or the Title IX Coordinator may file the formal Title IX complaint as defined in s. UWS 17.02 (8m). Unless a formal Title IX complaint is dismissed under par. (a)

This shall include information upon which the university does not intend to rely in reaching a determination regarding responsibility as well as any inculpatory or exculpatory evidence.

(b) At least 10 days to submit a written response to the evidence, which the investigator shall consider prior to completion of the final investigative report.

(6) FINAL INVESTIGATIVE REPORT. The investigator shall create an investigative report that fairly summarizes relevant evidence. The final investigative report may contain recommended determinations as to whether sexual misconduct occurred and specification of any sanction recommended. The final investigative report shall be delivered simultaneously to the respondent and complainant and their advisors, if any, for their review and response at least 10 days prior to a hearing. Upon distribution of the final investigative

leges restored before the suspension has expired by its own terms
under s. [UWS 17.17 \(2\)](#)