

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.
- (4)** A student who has twice been found responsible for misconduct that materially and substantially disrupted the free speech rights of others at any time during the student's enrollment shall be suspended for a minimum of one semester. A student who has thrice been found responsible for misconduct that materially and substantially disrupted the free speech rights of others at any time during the student's enrollment shall be expelled.

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 \(1\)](#).
(1)(a) MANDATORY INVESTIGATION AND HEARING. The investigating officer shall conduct an investigation the second or subsequent time that a formal complaint alleges that a particular student, in an incident unrelated to any prior formal complaints against that student, has engaged in violent or other disorderly conduct that materially disrupted the free speech rights of others. The investigating officer shall provide an investigative report to the hearing examiner or hearing committee for a required hearing under UWS 17.12 that may impose the disciplinary sanctions described in UWS 17.10(1)(i) and (4). For the purposes of this section, a formal complaint is a written complaint against a student filed with an institution alleging violent or other disorderly conduct that materially disrupted the free speech rights of others.
- (2) CONFERENCE WITH RESPONDENT. When the investigating officer concludes that proceedings under this section are warranted, or proceedings are required under UWS 17.11(1)(a), the investigating officer shall promptly contact the respondent in person, by telephone, or by electronic mail to offer to discuss the matter, review the investigating officer's basis for believing that the respondent engaged in nonacademic misconduct, or to review a formal complaint under UWS 17.11(1)(a), and to afford the respondent an opportunity to respond. If the respondent fails to respond to the investigating officer, the investigating officer may proceed to make a determination on the basis of the available information. A complainant shall have all the rights provided to the respondent in this subsection.
- (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 except when an investigative report and hearing are required as provided in UWS 17.11(1)(a). The investigating officer shall simultaneously notify the respondent and the complainant of this outcome and offer to discuss it separately with either one. If the investigating officer determines that nonacademic misconduct did not occur or that no disciplinary sanction is warranted, the complainant may appeal this decision in accordance with s. [UWS 17.13](#).
- (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, or if the investigating officer determines that nonacademic misconduct did not occur, but the officer is required under UWS 17.11(1)(a) to provide an investigative report, 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 complainant and the respondent, except as may be precluded by applicable state or federal law.
 3. Specification of the sanction sought, or if the investigating officer determined that nonacademic misconduct did not occur in a formal complaint processed under UWS 17.11(1)(a), specification of why a sanction is not appropriate.
 4. Notice of the respondent's right to a hearing or indication that a hearing is required under UWS 17.11(1)(a).

5. A copy of this chapter and of the institutional procedures adopted to implement this section.
- (b) The written report shall be delivered simultaneously to the respondent and complainant, excluding any information that may be precluded by applicable state or federal law.
- (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 17.10 \(1\) \(a\)](#) 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 17.10 \(1\) \(h\)](#) 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 respondent waives, in writing, the right to such a hearing.
3. Where, under UWS 17.11(1)(a), the disciplinary sanction sought or applicable to the respondent is provided for in UWS 17.10 (1)(i) and UWS 17.10(4), the investigating officer shall forward a copy of the written report under paragraph (b) to the student affairs officer. The student affairs officer shall, upon receipt of the written report, proceed under UWS 17.12 to schedule a hearing on the matter.

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 or 3](#), shall have the right to decide whether the matter will be heard by a hearing examiner or a hearing committee. In cases of sexual assault, dating violence, domestic violence, stalking, or sexual harassment the university shall have the right to decide whether the matter will 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 or 3](#), 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, or if the investigating officer in a complaint under UWS 17.11(1)(a) made a determination that no misconduct occurred, a full explanation in writing of the facts upon which that determination was based, and shall provide the respondent and the complainant 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 his or her own behalf, and the right to be accompanied by an advisor of the respondent'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 respondent but may not directly question adverse witnesses, present information or witnesses, or speak on behalf of the respondent 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 respondent 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 respondent. In accordance with the educational purposes of the hearing, the respondent is expected to respond on his or her own behalf to questions asked of him or her during the hearing. The complainant shall have all the rights provided to the respondent in this subsection.
 - (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 complainant and respondent are 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 respondent and the complainant may access the record, except as may be precluded by applicable state or federal law.
 - (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, sexual assault, dating violence, domestic violence, or stalking.
- (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, except in a complaint under UWS 17.11(1)(a) that is subject to the sanctions in UWS 17.10(1)(i) and (4).
- (h) The hearing shall be conducted by the hearing examiner or committee, and the university's case against the respondent 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 simultaneously to the respondent and the complainant, excluding information that may be precluded by state or federal law. 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 schedule hearing and to proceed, the hearing examiner or committee may issue a decision based upon the information provided.
- (k) Disciplinary hearings are subject to the Wisconsin open meetings law and may be closed if the respondent or complainant 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.