

Plain Language Analysis of Proposed Rule

Chapter UWS 17, Wisconsin Administrative Code

Student Non-Academic Disciplinary Procedures

The Board of Regents of the University of Wisconsin System's authority to promulgate the proposed rule is found in Wisconsin Statutes, Section 36.35, which states: "The board shall promulgate rules under ch. 227 governing student conduct and procedure for the administration of violations."

The proposed rule amends Chapter UWS 17.10, Chapter UWS 17.11, and Chapter UWS 17.12 to state: (1) that a student who has twice been found responsible for misconduct that materially and substantially disrupted the free speech rights of others during the student's enrollment shall be suspended for a minimum of one semester; (2) that a student who has three times been found responsible for misconduct that materially and substantially disrupted the free speech rights of others during the student's enrollment shall be expelled; and (3) that a formal investigation and disciplinary hearing is required the second time a formal complaint alleges that a student has engaged in violent or other disorderly misconduct that materially and substantially disrupted the free expression of others.

The Board of Regents recognizes that incidents have occurred on its campuses where certain students have not respected the free speech rights of others and have disrupted events, including events involving outside, invited speakers. After reviewing the issue, the Board has determined that mandatory disciplinary penalties, in certain defined situations, are necessary to deter students from materially and substantially disrupting the free speech rights of others.

The federal government has not legislated or regulated in the area of university disciplinary actions toward students alleged to have violated the free speech rights of others. The Federal Executive Order on Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities issued on March 21, 2019, is tangentially related.

Public universities in Illinois, Michigan, Iowa and Minnesota have individual nonacademic student disciplinary policies and procedures. On information and belief, the public universities in these four, neighboring states do not have mandatory student disciplinary penalties relating to disruption of free speech similar to those proposed in this rule.

The proposed rule is not expected to have any economic or fiscal impact on specific businesses, on business sectors (including small businesses), or on the State of Wisconsin's economy as a whole.

The Board of Regents received thirty-eight written comments from the public on the scope statement of proposed rule change to UWS Chapter 17. In addition, nine speakers voiced their opinion on the scope statement at the public hearing held on August 13, 2019. All those who spoke at the hearing ultimately opposed the scope statement, and all but one of the written commenters opposed the scope statement as well.

Speakers and commenters expressed concerns the proposed rule as generally described in the scope statement would punish, rather than protect, the free speech rights of students and silence student dissent on campus. Concern was stated about the proposed rule having a disproportionate impact on traditionally oppressed groups in society. The mandatory punishment provisions were stated to take away power and discretion away from campuses on how to address this form of student misconduct, and concern was expressed that no other form of nonacademic misconduct in Chapter UWS 17 requires specific, mandatory punishments. A summary of the written comments and oral statements on the proposed scope statement was provided to the Board of Regents and to staff and taken into account in drafting the proposed rule.

The Board of Regents will accept written comments on the potential economic impact of the proposed rule until January 27, 2020. Comments may be submitted: (1) on the web at <https://www.wisconsin.edu/regents/public-comment-form-chapter-uws-17-wis-admin-code/>; (2) by email to board@uwsa.edu; (2) by mail to Office of the Board of Regents, 1860 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706.

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