

**NOTICE OF PRELIMINARY PUBLIC HEARING ON
ADMINISTRATIVE CODE SCOPE STATEMENT FOR
CHAPTER UWS 17, WISCONSIN ADMINISTRATIVE CODE**

BACKGROUND

The University of Wisconsin System (UW System) seeks to modify the University of Wisconsin Board of Regents (Board) administrative rule, known as Ch. UWS 17, Wis. Admin. Code, “Nonacademic Student Misconduct.” All UW System institutions would be affected by the proposed rule revisions articulated in the related scope statement.

The Board has statutory authority for Chapter UWS 17 under s. 36.35, Wis. Stats., which reads as follows: “The board shall promulgate rules under ch. 227 governing student conduct and procedures for the administration of violations.”

Approval from the full Board for a Notice of Preliminary Public Hearing on the scope statement pertaining to the above-named chapter is requested.

Regent approval of the Notice will result in publication of the Notice and the holding of a public hearing on the scope statement, followed by review of testimony and comments received on the scope statement, and Regent review and potential approval of the scope statement at a subsequent Board meeting.

REQUESTED ACTION

Approval of Resolution II.13., approving the Notice of Preliminary Public Hearing on a scope statement for Ch. UWS 17, Wis. Admin. Code, “Nonacademic Student Misconduct.”

DISCUSSION

Regent Policy Document 4-21, Commitment to Academic Freedom and Freedom of Expression (RPD 4-21), contains a provision stating that a student found responsible on two occasions for disrupting the free speech rights of others is to be suspended for a minimum of one semester. A student found responsible for three violations is to be expelled. RPD 4-21 also specifically states that these mandatory penalties are “effective upon amendment of Chapter UWS 17 of the Wisconsin Administrative Code under Chapter 227 of the Wisconsin Statutes to include a parallel provision.” UW institutions currently have authority to suspend or expel students who disrupt the free speech rights of others. This proposed rule change would impose mandatory penalties for repeat violators.

The University’s proposed scope statement for the amendment of Chapter UWS 17 to effectuate these penalties has been approved by the Governor and the DOA Secretary. The State Legislature’s Joint Committee for Review of Administrative Rules (JCRAR) has directed that

the University hold a preliminary public hearing and comment on the scope statement. Accordingly, the next steps in the rulemaking process are Board of Regents' approval of a proposed meeting notice for a preliminary public hearing on the scope statement, followed by formal publication of that notice and by a public hearing.

A copy of the Statement of Scope is included as Appendix A; a Notice of Preliminary Public Hearing on Scope Statement is included as Appendix B.

RELATED REGENT POLICIES

Regent Policy Document 4-21, Commitment to Academic Freedom and Freedom of Expression

STATEMENT OF SCOPE

Board of Regents of the University of Wisconsin System

Rule No.: Chapter UWS 17

Relating to: Nonacademic Student Misconduct

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The Board of Regents of the University of Wisconsin System (Board) has been a leader in its support of academic freedom and the freedom of expression. On October 6, 2017, the Board approved Regent Policy Document 4-21 on *Commitment to Academic Freedom and Freedom of Expression*, setting forth the expectations of the Board regarding academic freedom and freedom of expression, and the consequences for those who violate the free expression of others.

The portion of the policy document that addresses student discipline requires that Chapter UWS 17 be modified to state when a formal investigation and hearing is required and the instances in which the disciplinary sanctions of suspension and expulsion must be invoked. Therefore, the Board seeks to modify Chapter UWS 17 regarding Student Nonacademic Misconduct, consistent with the Board's action on October 6, 2017 in approving the Regent Policy Document on *Commitment to Academic Freedom and Freedom of Expression*.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter UWS 17 currently provides discretion to the investigating officer and provides a list of optional disciplinary sanctions for nonacademic misconduct. It does not specify when a formal investigation and disciplinary hearing is required, nor does it state mandatory sanctions for students found responsible for misconduct that materially and substantially disrupted the free expression of others.

The Board's *Commitment to Academic Freedom and Freedom of Expression* policy states that a formal investigation and disciplinary hearing is required the second time a formal complaint alleges a student has engaged in violent or other disorderly misconduct that materially and substantially disrupted the free expression of others. The policy also requires that any student who has twice been found responsible for misconduct that materially and substantially disrupted the free expression of others at any time during the student's enrollment shall be suspended for a minimum of one semester. Finally, the policy requires that any student who has three times been found responsible for misconduct that materially and substantially disrupted the free expression of others at any time during the student's enrollment shall be expelled. The Board policy states that these measures would be effective upon amendment of Chapter UWS 17 under Chapter 227 of the Wisconsin Statutes to include a parallel provision.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Wisconsin Statute § 36.35 states: "The board shall promulgate rules under ch. 227 governing student conduct and procedures for the administration of violations."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

50 hours

6. List with description of all entities that may be affected by the proposed rule:

All University of Wisconsin institutions and the students thereof.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

N/A

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

There is no anticipated economic impact of the proposed rule.

Contact Person: Raymond Cross, President of the University of Wisconsin System, 608-262-2321



Department Head or Authorized Signature



Date Submitted

Appendix B

NOTICE OF PRELIMINARY PUBLIC HEARING BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

Tuesday, August 13, 2019
3:00 p.m. to 5:00 p.m.
Gordon Dining and Event Center – 2nd floor, Symphony Room
770 W. Dayton Street, Madison, Wisconsin

The Board of Regents of the University of Wisconsin System will hold a public hearing on permanent rules to amend Chapters UWS 17, Wis. Admin. Code, to address student discipline related to violent or other disorderly misconduct that materially and substantially disrupts the free expression of others, when a formal investigation and disciplinary hearing is required, and mandatory sanctions for students found responsible for misconduct that materially and substantially disrupts the free expression of others.

Appearances at the Hearing and Submittal of Written Comments

UW System personnel or a member of the Board of Regents will preside over the preliminary public hearing on behalf of the Board of Regents, to provide interested persons with the opportunity to make an oral presentation on the proposed scope statement. Each individual who registers to speak will be given up to three minutes to give an oral presentation. Persons making oral presentations are requested to also submit their comments in writing.

The Board of Regents will accept written comments until August 20, 2019. Comments may be submitted: (1) on the web at <https://www.wisconsin.edu/regents/public-comment-form/> or https://docs.legis.wisconsin.gov/code/scope_statements/all/071_18; (2) by email to board@uwsa.edu; (3) at the public hearing; or (4) by mail to Office of the Board of Regents, 1860 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706.

To request a paper copy of the scope statement, contact the Office of the Board of Regents at the address above or by email at board@uwsa.edu or phone at (608) 262-2324. The scope statement is also available for review at https://docs.legis.wisconsin.gov/code/scope_statements/all/071_18. This site includes additional documents associated with this proposed permanent rule promulgation.

Initial Regulatory Flexibility Analysis

The proposed rules will not have an effect on small businesses, as defined under s. 227.114(1), Stats.

Accessibility

Persons with special needs or circumstances regarding communication or accessibility at the hearing should call Jess Lathrop, Executive Director, Office of the Board of Regents, at (608) 262-2324 prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audio format will be made available on request to the fullest extent possible.