

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN

Friday, February 6, 1998

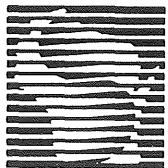
9:00 a.m.

1860 Van Hise Hall

1220 Linden Drive

Madison, Wisconsin

1. Calling of the roll
2. Approval of the minutes of the December 5, 1997, meeting
3. Report of the President of the Board
 - a. Report of the December 12, 1997, meeting of the Educational Communications Board
 - b. Report of the Regent member of the Public Broadcasting Study
 - c. Report of the January 28, 1998, meeting of the Wisconsin Technical College System Board
 - d. Report of the January 22, 1998, meeting of the Hospital Authority Board
 - e. Report on legislative matters
 - f. Additional items that the President of the Board may report or present to the Board
4. Report of the President of the System
 - a. UW-La Crosse presentation on student assessment
 - b. Additional items that the President of the System may report or present to the Board
5. Report of the January 15, 1998, meeting of the Executive Committee
6. Report of the Business and Finance Committee
7. Report of the Education Committee
8. Report of the Physical Planning and Funding Committee
9. Additional resolutions
 - a. 1999 meeting schedule
[Resolution II.9.a.]
 - b. Amendments to Chapter UWS 18, *Wisconsin Administrative Code*
[Resolution II.9.b.]
10. Communications, petitions, memorials
11. Unfinished or additional business
12. Recess into closed session to consider honorary degree nominations by UW-Milwaukee, UW-Superior, UW-Oshkosh and UW-Stout, as permitted by s.19.85[1][f], *Wis. Stats.*, to consider salary matters at UW-Madison, UW-Milwaukee and UW-Parkside; and to consider revision to Wisconsin Distinguished Professorship, UW-Whitewater, as permitted by s.19.85[1][c], *Wis. Stats.*, and to confer with legal counsel, as permitted by s.19.85[1][g], *Wis. Stats.*



Board of Regents of The University of Wisconsin System

1860 Van Hise Hall, 1220 Linden Drive
Madison, Wisconsin 53706
(608) 262-2324

January 22, 1998

TO: Regents

FROM: Patrick G. Boyle

RE: Summary of the December 12, 1997, Meeting of the
State of Wisconsin Educational Communications Board

At its meeting of December 12, the Educational Communications Board:

- Welcomed new Board member, David Olien, Interim Senior Vice President for Administration of the University of Wisconsin System.
- Received the report of the Executive Director, which included:
 - A citation of recognition for Jack Mitchell, retiring Director of Wisconsin Public Radio, after 26 years of service. Also acknowledged were the contributions of retiring Board members David Barnard, Sally Bilder, and Keith Sanders.
 - An announcement that the Commission of Public Broadcasting would hold its first meeting on January 14, 1998. Representing the UW System will be Regent Patrick Boyle.
 - An announcement that the search for a new Director for Wisconsin Public Radio has begun, with a working timeline of having a new director in place by June 1, 1998.
- Received a legal briefing from Todd Gray, Esq., of Dow, Lohnes, and Albertson on the Forbes Case, now before the U.S. Supreme Court. The case is pertinent to the ECB's interests because it focuses on whether governmental licensees enjoy the same First Amendment editorial discretion over programming as do commercial broadcasters. In this case, a minor third party candidate has sued that his views should have been included in a political debate produced and broadcast by the Arkansas Educational Television Commission. The Court will hand down its decision in the spring of 1998.
- Elected Edward Chin of the Wisconsin Technical College System, to replace Sally Bilder as a Trustee of the Wisconsin Public Broadcasting Foundation.
- Was briefed on the status of the unified Digital Television (DTV) planning efforts, currently in the early phases of frequency and structural analysis and interconnection design. It is anticipated that the planning will be completed by the Fall of 1998, in time for submission of the agency's 1999-2001 capital budget request to the State Building Commission.

- Viewed special Wisconsin Sesquicentennial programming produced by Wisconsin Public Television and the Division of Educational Services.
- Received and accepted the Financial Report, ending October 31, 1997, prepared by the Associate Director of Finance and Administration, .

The next meeting of the ECB will be held on March 13, 1998.

1999 Regent Meeting
Schedule

BOARD OF REGENTS

Resolution:

That the Board of Regents adopts the 1999 meeting schedule as presented in the agenda materials for this meeting.

2/06/98

II.9.a.



Board of Regents of The University of Wisconsin System

Office of the Secretary
1860 Van Hise Hall, 1220 Linden Drive
Madison, Wisconsin 53706
(608) 262-2324

January 28, 1998

To: The Board of Regents
From: Judith Temby *JT*
Subj: 1999 meeting schedule

Attached is a draft meeting schedule for the period January through December 1999. Dates have been selected in accordance with Board Bylaws which provide for Board meetings to be held on the Friday following the first Monday in each month, except that the August meeting shall be held on the Friday following the third Monday.

The schedule shows meetings to be hosted by UW-Extension in February, UW-Parkside in May, UW-Milwaukee in June and UW-River Falls in October, at the invitation of those institutions. In accordance with the Board's practice, meetings in January and August would be canceled, circumstances permitting.

Resolution II.9.a. provides for adoption of the 1999 meeting schedule.

Cc: President Lyall
Vice Presidents
Chancellors

Mtgschmmo.doc

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

1999 Meeting Schedule

January 7 and 8
(Canceled, circumstances permitting)

February 4 and 5
(UW-Extension)

March 4 and 5

April 8 and 9

May 6 and 7
(UW-Parkside)

June 10 and 11
(UW-Milwaukee)
[Annual Meeting]

July 8 and 9
(Annual Budget)

August 26 and 27
(Canceled, circumstances permitting)

September 9 and 10

October 7 and 8
(UW-River Falls)

November 4 and 5

December 9 and 10

Revisions to Chapter UWS 18,
Wisconsin Administrative Code

BOARD OF REGENTS

Resolution:

That the Secretary of the Board of Regents, pursuant to s. 227.19, Wis. Stats., notify the presiding officer of each house of the Legislature that proposed revisions to Chapter UWS 18, Wisconsin Administrative Code, are in final draft form, and cause a statement to appear in the Wisconsin Administrative Register that said proposed rules have been submitted to the presiding officer of each house of the Legislature.



The University of Wisconsin System

Office of General Counsel

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John B. Tallman 262-0747
Patricia A. Brady 262-6497
Edward S. Alschuler 265-2960

January 23, 1998

To: ALL REGENTS

From: Patricia A. Brady *PAB*
Senior System Legal Counsel

Re: Revisions in Chapter UWS 18, Wisconsin Administrative Code
Conduct on University Lands

In accordance with the resolution of the Board of Regents at its November 7, 1997 meeting, an administrative rule hearing on revisions to Chapter UWS 18, Wisconsin Administrative Code, has been scheduled for Thursday, February 5, 1998, at 12:30 p.m., in Room 1820 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin. Attached are the proposed revisions, in the form prescribed by Chapter 227, Wisconsin Statutes, together with the Legislative Council Rules Clearinghouse Report on the proposal.

Description of Rules Revisions

Under s. 36.11(1)(c), Wisconsin Statutes, the Board is authorized to promulgate rules governing conduct on university lands. The Board's rules in this area are codified in Chapter UWS 18, Wisconsin Administrative Code. The rules in Chapter UWS 18 are enforced through the citation process of s. 778.25, Wisconsin Statutes, in a manner similar to the process used by municipalities to deal with local ordinance violations.

The last major revisions to Chapter UWS 18 were completed in 1991. The current proposal would consolidate some of the existing provisions, amend others to create consistency with state criminal statutes and municipal ordinances, and add a number of new sections to address new law enforcement problems.

The proposed revisions in Chapter UWS 18 change existing rules in several ways. The fire safety provisions now found in UWS 18.06(11) and (35) have been consolidated in a new UWS 18.06(11). The modified section also contains new prohibitions on the use of fires on university lands and in university facilities; the negligent use of burning materials; and tampering with fire safety equipment. The general prohibition on camping

on university lands, as set forth in UWS 18.06(13), has been amended to clarify what is included in the definition of "camping." The dollar values that define the offenses of petty theft and the issue of worthless checks in UWS 18.06(37) and (41) have been revised to reflect current statutory limits.

In addition, several new provisions are proposed. These would prohibit the possession of drug paraphernalia, resisting or obstructing police officers, abuses of telephones, assaultive behavior, the operation of motor vehicles off roadways, misuse of parking permits, damage to computers and related equipment, abuse of computer communication equipment, deposit of human waste, curfew violations by minors, conduct at athletic events and theft of library materials.

These proposed revisions must be approved through the administrative rule-making process of Chapter 227, Wisconsin Statutes. The resolutions previously adopted by the Board initiated the rule-making process. The scheduled public hearing is the next step in this process. Following the public hearing, the rules are submitted to both houses of the legislature for action.

Legislative Council Rules Clearinghouse Report

In conjunction with the public hearing, it is also necessary to consider the recommendations of the Legislative Council Rules Clearinghouse. A copy of the Clearinghouse report is attached. The Clearinghouse reviews all proposed administrative rules for the existence of adequate statutory authority for their adoption, and for compliance with various technical drafting requirements. Clearinghouse recommendations are advisory, but agencies must respond to them at the time the rules are forwarded to the Legislature.

The Clearinghouse report on the proposed revisions to UWS 18 contains several comments and questions on the rules. The responses to these comments are as follows:

(1) The suggestion in paragraph a. of the report that a specific applicability section be added to the rules has been accepted. The revisions will first be applicable on September 1, 1998. The rules as revised will then be circulated to the campuses for inclusion in appropriate campus publications, and will also be available via the worldwide web.

(2) The comment in paragraph b. of the report suggests that a description of the applicable penalty sections, and the relationship between the conduct rules and the criminal and statutory provisions, be added to the analysis of the rules. As set forth in the analysis, the enforcement of the rules in UWS 18 is through the citation process of s. 778.25, Wisconsin Statutes. The bond amounts for the infractions listed in UWS 18.06 are established annually by the Wisconsin Judicial Conference, in consultation with campus law enforcement officials. If a citation is not contested, the bond amount is forfeited. The maximum amount of any forfeiture is, however, \$500, as specified in UWS 18.07. Given

the nature of the citation and bond-setting process, it is not feasible to include in the analysis a precise statement with respect to the penalty for each separate infraction.

(3) The comment in paragraph c. asks why the rule has two separate sections for petty theft in UWS 18.06 (41)(a) and (b). The two provisions specify different dollar amounts for the offenses, in effect creating two “degrees” of petty theft. The two are separated in order to allow different bond amounts to be established for each “degree.”

(4) Paragraph d. points out that the new fire safety provisions would prohibit the burning of candles on university lands and in university facilities, except in areas designated by the chief administrative officer, and asks whether the rule was intended to go so far. Because of concerns about safety, particularly in residence halls, university staff members involved in revising the rules felt it important to specify that candle-burning is included in the general prohibition on fires. The rule reflects this intent.

(5) In paragraph e., there is a question about the use of the term “throw away” in UWS 18.06(11)(c). This language came directly from the existing rule, and appears sufficiently clear to apprise readers of the intended meaning.

(6) Paragraph f. contains the suggestion that the new prohibition on possession of “drug paraphernalia” should be reviewed to ensure that it does not restrict the legitimate use of items used in research or medical settings. Proposed UWS 18.06(35) has been clarified to address this problem.

The paragraph goes on to recommend that the statutory exclusions contained in s. 961.571 also be cross-referenced in the rule. This suggestion, too, is reflected in proposed UWS 18.06(35).

(7) The comment in paragraph g., suggests that UWS 18.06(42), relating to assaultive behavior, be clarified to assure that conduct not normally considered “assaultive”—e.g., self-defense—would not result in the issuance of a citation. While this comment points to a legitimate concern, the proposed language parallels, in part, s. 947.013(1m), Wisconsin Statutes. Law enforcement officers would exercise judgment in determining whether to issue a citation, and self-defense or other exculpatory matters could be raised as affirmative defenses in appropriate cases.

(8) In paragraph h., the report asks why the word “solely” is used in two paragraphs in UWS 18.06(46), but not in all. This provision, which deals with unlawful use of computerized communications, is based on s. 947.0125(3), Wisconsin Statutes. The term “solely” is used in both the rule and the statute in connection with the intent requirement. In those sections where the intent requirement is limited to the intent to harass, the term “solely” modifies “to harass.” In the sections where the intent requirement also applies to the intent to annoy, offend or harass, the term “solely” is not used. In order to maintain consistency with the statute, the same language appears in UWS 18.06(46).

(9) Paragraph i. discusses the loitering provision of UWS 18.06(48), and inquires whether it is sufficiently specific to allow for consistent application. This provision is modeled on municipal ordinances setting curfews for minors, and should serve to make the university's treatment of curfew violations consistent with that of surrounding communities. The term "currently enrolled university students" encompasses students enrolled in any university or college. The intent was to exempt minors who are already attending a university from the curfew requirements.

(10) The final comment goes to the process of contesting citations issued under UWS 18. The process is through the state court system, as set forth in s. 778.25, Wisconsin Statutes. The citation form itself specifies how to contest the citation.

I hope this information will be of assistance to you as you prepare for the public hearing on the proposed revisions to Chapter UWS 18. If you have any questions, or require additional information, please feel free to contact me.

Attachments

cc: President Lyall
Senior Vice President Ward
Interim Senior Vice President Olien
Vice President Bromberg
Acting Vice President Lewis

PROPOSED ORDER OF THE BOARD OF REGENTS OF
THE UNIVERSITY OF WISCONSIN SYSTEM
AMENDING, REPEALING AND RECREATING,
AND CREATING RULES

Agency contact persons: Patricia A. Brady (608/262-6497);
Judith A. Temby (608/262-2324)

[INTRODUCTORY CLAUSE]

The Board of Regents of the University of Wisconsin System proposes an order to amend UWS 18.06(14)(37) and (41); to repeal and recreate UWS 18.06(11)(34) and (35); and to create UWS 18.06(33)(d) to (f) and UWS 18.06(42) to (50), relating to conduct on university lands.

[PLAIN LANGUAGE ANALYSIS PREPARED BY THE UW SYSTEM]

Pursuant to ss. 36.11(1)(c) and 227.11, Wisconsin Statutes, the Board of Regents is authorized to promulgate rules governing conduct on university lands. The Board's rules in this area are set forth in Chapter UWS 18, Wisconsin Administrative Code. Campus law enforcement officers enforce the rules in this chapter through the citation process established in s. 778.25, Wisconsin Statutes. The citation procedure is similar to enforcement procedures used by municipalities to deal with local ordinance violations.

The last major revisions in Chapter UWS 18 were completed in 1991. The revisions currently proposed would consolidate some existing provisions, amend others to create consistency with state criminal statutes and municipal ordinances that have been modified since 1991, and create new provisions to address new law enforcement problems.

Modifications proposed in existing rules include the consolidation of the fire safety provisions now found in s. UWS 18.06(11) and (35), into a new s. UWS 18.06(11). As modified, this section would also add new prohibitions on the use of fires on university lands and in university facilities; the negligent use of burning materials; and tampering with fire safety equipment. The general prohibition on camping on university lands, as set forth in s. UWS 18.06(13), has been amended to clarify what is included in the definition of "camping." The dollar values that define the offenses of petty theft and the issue of worthless checks in s. UWS 18.06(37) and (41) have been revised to reflect current statutory limits.

In addition, new provisions in s. 18.06(33)(d) to (f), (35) and (42) to (50) have been proposed to prohibit the possession of drug paraphernalia, resisting or obstructing police officers, abuses of telephones, assaultive behavior, the operation of motor vehicles off roadways, misuse of parking permits, damage to computers and related equipment, abuse of computer communication equipment, deposit of human waste, curfew violations by

minors, conduct at athletic events and theft of library materials. The inclusion of these new provisions in the rules will allow university police to process these kinds of violations in a manner parallel to the process provided for violations of similar municipal ordinances.

[TEXT OF RULE]

SECTION 1. UWS 18.06(14)(37) and (41) are amended to read:

(14) No person may picnic or camp on university lands, except in those areas specifically designated as picnic or camping grounds, or as authorized by the chief administrative officer. No person may violate any rules and regulations for picnicking or camping established and posted by the chief administrative officer. For purposes of this regulation subsection, camping shall include the pitching of tents or the overnight use of sleeping bags, blankets, makeshift shelters, motor homes, campers or camp trailers.

(37) *Issue of Worthless Check*. (a) No person may issue any check or other order for the payment of money less than ~~\$500~~ \$1000 which, at the time of issuance, he or she intends shall not be paid.

(b) In this subsection, prima facie evidence that the person, at the time he or she issued the check or other order for the payment of money, intended it should not be paid, has the meaning and includes the items of proof set forth in ~~s. 943.23, Stats.~~ s. 943.24, Stats.

(c) This subsection does not apply to a postdated check or to a check given for past consideration, except a payroll check.

(41) ~~*Petty Theft under \$100 Theft*~~. (a) No person may intentionally take and carry away, use, transfer, conceal, or retain possession of movable property of another

with a value of under \$100, without consent and with the intent to deprive the owner permanently of such property.

(b) No person may intentionally take and carry away, use, transfer, conceal, or retain possession of movable property of another with a value of at least \$100 but not more than \$500, without consent and with the intent to deprive the owner permanently of such property.

SECTION 2. UWS 18.06(11)(34) and (35) are repealed and recreated to read:

(11) *Fire Safety.* (a) No person may light, build or use any fires, including but not limited to burning candles, burning incense or gas or charcoal cooking appliances, on university lands or in university facilities except in such places as are established for these purposes and designated by the chief administrative officer.

(b) No person may handle burning material in a highly negligent manner. In this subsection, burning material is handled in a highly negligent manner if it is handled under circumstances in which the person should realize that a substantial and unreasonable risk of serious damage to another's property is created.

(c) No person may throw away any cigarette, cigar, pipe ash or other burning material without first extinguishing it.

(d) No person may interfere with, tamper with or remove, without authorization, any smoke detector, fire extinguisher, fire hose or other fire fighting equipment.

(e) No person may intentionally give a false fire alarm, whether by means of a fire alarm system or otherwise.

(f) No person may deface, remove, tamper with or obstruct from view any sign which has been posted to provide directions for fire or emergency exits from university facilities.

(g) No person may remain in any university facility or on university lands when an audible or visual fire alarm has been activated or upon being notified by fire fighting, law enforcement or security personnel to evacuate.

(34) *Resisting or Obstructing Peace Officers.* (a) No person may knowingly resist or obstruct a university peace officer while that officer is doing any act in an official capacity and with lawful authority.

(b) In this subsection, “obstruct” includes without limitation knowingly giving false information or knowingly placing physical evidence with the intent to mislead a university peace officer in the performance of his or her duty.

(35) *Possession of Drug Paraphernalia.* (a) No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of ch. 961, Stats.

(b) In this subsection, the term “drug paraphernalia” has the meaning specified in s. 961.571(1), Stats.; the term “controlled substance” has the meaning specified in s. 961.01(4), Stats.; and the term “controlled substance analog” has the meaning specified in s. 961.01(4m), Stats.

(c) In determining whether an object is drug paraphernalia under this subsection, the factors listed in s. 961.572, Stats., and all other legally relevant factors, shall be considered.

SECTION 3. UWS 18.06(33)(d) to (f) and UWS 18.06(42) to (50) are created to read:

(33) (d) No person, with the intent to harass or offend, may telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act.

(e) No person, with the intent to harass any person at the called number, may make a telephone call, whether or not conversation ensues, without disclosing his or her identity.

(f) No person may knowingly permit any telephone under his or her control to be used for any purpose prohibited by this subsection.

(42) *Assaultive Behavior.* (a) No person may intentionally strike, shove, hit, punch, kick or otherwise subject another person to physical contact or cause bodily harm without the consent of the person.

(b) This subsection shall not be applicable if the individuals involved have a relationship, as defined in s. 968.075(1)(a), Stats., which requires a law enforcement officer to investigate the matter as a domestic abuse incident.

(43) *Operation of a Motor Vehicle off Roadways.* No person shall operate a motor vehicle off designated roadways, paved or unpaved, on university lands, in a manner that may cause damage to property or endanger the safety of any person.

(44) *Misuse of Parking Services.* (a) No person may falsify, alter or duplicate or request the unauthorized falsification, alteration or duplication of any type of university parking permit.

(b) No person may knowingly display on a vehicle, or knowingly allow another person to display on a vehicle, a falsified, altered, duplicated, stolen, lost or found parking permit.

(c) No person may knowingly provide false information to any university employee or agent with the intent to obtain a valid university parking permit.

(45) *Computer Data, Programs, Equipment or Supplies.* No person may willfully, knowingly and without authorization do or attempt to do any of the following:

(a) Modify, destroy, access, take possession of or copy data, computer programs or supporting documentation;

(b) Disclose restricted access codes or other restricted access information to a person not authorized to possess such codes or information;

(c) Modify, destroy, use, take or damage a computer, computer system or computer network;

(d) Modify, destroy, use, take or damage any equipment or supplies used, or intended to be used, in a computer, computer system or computer network.

(46) *Computer Use.* (a) No person may, with intent to harass, annoy or offend another person, send a message to the person on an electronic mail or other computerized communication system and in that message use any obscene, lewd or profane language or suggest any lewd or lascivious act.

(b) No person may, with intent to harass, annoy or offend another person, send a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message use any obscene, lewd or profane language or suggest any lewd or lascivious act.

(c) No person may, with intent solely to harass another person, send repeated messages to the person on an electronic mail or other computerized communication system.

(d) No person may, with intent solely to harass another person, send repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.

(e) No person may, with intent to harass or annoy another person, send a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(f) No person may, while intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, send a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(g) No person may knowingly permit or direct another person to send a message prohibited by this subsection from any computer terminal or other device that is used to send messages on an electronic mail or other computerized communication system and that is under his or her control.

(47) *Deposit of Human Waste Products.* No person may deposit human waste products upon, nor urinate or defecate upon, any university lands or facilities other than into a toilet or other device designed and intended to be used to ultimately deposit such human waste products into a septic or sanitary sewer system.

(48) *Loitering.* (a) No minor person may loiter, idle, wander or play, either on foot or in or on any vehicle of any nature, on university lands between the hours of 11:00 p.m. and 5:00 a.m. on Sunday through Thursday, and the hours of midnight through 5:00 a.m. on Friday and Saturday, unless accompanied by a parent, guardian, or other adult person having care and custody of the minor.

(b) This subsection shall not apply to minors returning home from functions authorized by any public or parochial school or church and carrying proof of identification on their persons, or to currently enrolled university students.

(49) *Athletic Events.* (a) No person may enter onto the playing surface of an officially sanctioned athletic event while the event is in progress without prior authorization from the chief administrative officer. An event is in progress from the time when teams, officials, trainers, support staff, or bands first reach the playing surface until the time when they have left.

(b) As used in this subsection, "playing surface" means that area on which the event is contested, together with the contiguous area used by teams, officials, trainers, and support staff.

(50) *Library Materials.* (a) No person may intentionally take, carry away, transfer, conceal or retain possession of any library material without the consent of a library official, agent or employee and with the intent to deprive the library of possession of the material.

(b) The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance

with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

[EFFECTIVE DATE]

It is proposed that this rule shall take effect September 1, 1998.

Dated: _____

Judith A. Temby
Secretary
Board of Regents of the
University of Wisconsin System

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 97-149

AN ORDER to amend UWS 18.06 (14), (37) and (41); to repeal and recreate UWS 18.06 (11), (34) and (35); and to create UWS 18.06 (33) (d) to (f) and (42) to (50), relating to conduct on university lands.

Submitted by **UNIVERSITY OF WISCONSIN SYSTEM**

12-03-97 RECEIVED BY LEGISLATIVE COUNCIL.
01-06-98 REPORT SENT TO AGENCY.

RECEIVED

JAN 06 1998

**UW SYSTEM OFFICE \
OF GENERAL COUNSEL**

RS:RW:wu;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES ☐

NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES ☐

NO ☒

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES ☐

NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached

YES ☐

NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES ☒

NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES ☐

NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES ☐

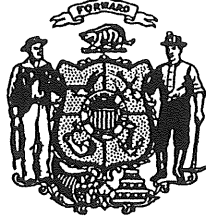
NO ☒

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 97-149

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The agency may wish to provide for an initial applicability section to set forth when the new provisions will first apply. Also, the agency may wish to address the issue of notice with regard to the new conduct rules to assure that students, faculty and staff, as well as the public, are made aware of the changes in rules of conduct.

b. The analysis would be more complete if it contained a description of the applicable penalty sections and also indicated the relationship between the conduct rules and the criminal and statutory provisions relating to conduct on university lands.

c. It is not clear why the rule is drafted with separate sections for petty theft in s. UWS (41) (a) and (b). Could these be combined, or are they separate because there may be different penalties applied to violations?

d. The specificity of the fire safety provisions could be problematic. For example, as drafted, no student, faculty, staff or member of the public would be permitted to light a candle under s. UWS 18.06 (11) (a) on any university property unless the site had been designated by the chief administrative officer and that site had been established for the purpose of candle-burning. The agency may wish to review this provision of the rule to assure that it reflects the intended policy.

e. Under s. UWS 18.06 (11) (c), would the scope of the rule be clearer if the term "throw away" were replaced by "discard"?

f. The agency may wish to carefully review the prohibition on use or possession of "drug paraphernalia" to assure that it does not restrict the legitimate use of items used in research relating to controlled substances or to items used in a medical setting. It may also be advisable to include specific reference to the statutory exclusions contained in s. 761.571 (1) (b), Stats.

g. Under s. UWS 18.06 (42), relating to assaultive behavior, a person may not intentionally "shove" or "subject another person to physical contact" without the consent of the person. The agency may wish to review and further delineate the scope of this provision; as drafted, the literal application of the provision could result in citations being issued under circumstances not normally considered "assaultive" behavior, for example, self-defense. While this may be the intent, the rule should be clarified to assure that the intent and application of the rule is clear.

h. In s. UWS 18.06 (46), why is the word "solely" used in pars. (c) and (d), but not in pars. (a), (b), (e) and (f)?

i. Is the loitering provision in s. UWS 18.06 (48) sufficiently specific to allow for consistent application and enforcement of its terms? Also, under s. UWS 18.06 (48) (b), does the term "currently enrolled university students" need further clarification or definition? For example, does the term refer to any student enrolled in a university or only to a University of Wisconsin (UW) student or only to a student enrolled in a specific UW institution?

j. Neither the rule nor the analysis provides any indication as to what appeal or recourse a person issued a citation under ch. UWS 18 is entitled to. Is there any procedure currently in place to contest the issuance of ch. UWS 18 citations? The agency may wish to reference this procedure if one currently exists, in the rule or analysis. If none exists currently, the agency may wish to consider creating such a procedure or directing each campus or entity to create such a procedure.