

I.3. Physical Planning and Funding Committee

Thursday, March 5, 1998
Van Hise Hall

1:15 p.m. Room 1920

Joint Session with Business and Finance Committee

- a. Funding Capital Projects/Bond Program

1:30 p.m. Room 1511

- b. Approval of minutes of the February 5, 1997 meeting of the Physical Planning and Funding Committee
- c. Vice President's Report
- d. Report on Building Commission Actions
- e. UW-Madison: Agricultural Hall Remodeling for Student Academic Affairs Project
Revised budget of \$359,000 Gift Funds
[Resolution No. I.3.e.]
- f. UW-Madison: 1999-2000 Eagle Heights Apartments Remodeling Project
\$3,517,000 (\$1,700,000 Program Revenue Supported Borrowing and \$1,817,000 Program Revenue-Cash)
[Resolution No. I.3.f.]
- g. UW-Madison: (a) Transfer Ownership of Northeast Family Practice Clinic to the Madison Family Medicine Residency Corporation
(b) Conceptual Approval to Negotiate a Lease on Behalf of UW-Madison Medical School Department of Family Medicine and Practice
[Resolution No. I.3.g.]
- h. UW-Parkside: Physical Education Addition and Remodeling -Phase 2 Project (Design Report)
\$6,013,500 (\$4,813,500 GFSB and \$1,200,000 Program Revenue Borrowing)
[Resolution No. I.3.h.]
- i. Revisions to Chapter 18, Wisconsin Administrative Code
- x. Additional items which may be presented to the Committee with its approval

Approval to Expand Scope and
Increase Budget for the Agricultural
Hall Remodeling for Academic Student
Affairs Project, UW Madison

PHYSICAL PLANNING AND FUNDING COMMITTEE

Resolution:

That, upon the recommendation of the UW-Madison Chancellor and the President of the University of Wisconsin System, authority be granted to expand the scope and increase the budget by \$110,000 for the Agricultural Hall Remodeling for Academic Student Affairs project for a revised estimated total budget of \$359,000 of Gift Funds.

THE UNIVERSITY OF WISCONSIN SYSTEM

Agency Request for
Board of Regents Action

March 1998

1. Institution: University of Wisconsin - Madison
2. Request: Requests authority to expand the scope and increase the budget by \$110,000 for the Agricultural Hall Remodeling for Academic Student Affairs project for a revised estimated total budget of \$359,000 of Gift Funds.
3. Description and Scope of Project: An increase in scope and budget is being requested to expand the 3,100 GSF renovation project approved for the first floor of the west wing of Agricultural Hall to include the perimeter offices. This will add approximately 1,700 GSF to the scope for a total renovation of 4,800 GSF. A 20-year old air handling unit, which serves the 3,100 GSF central office area, will be replaced with a new air handling unit and ductwork to serve the first floor wing, including the perimeter offices. Ceiling-mounted fan coil units will be removed in each perimeter room, but the existing steam radiators will remain. Work in the perimeter rooms will include new ceilings, light fixtures, carpeting and painting.

Work approved for the 3,100 GSF of core office space will involve removal of existing floor coverings, walls, and ceilings as required to construct a new reception desk and waiting area, workroom, file room, interview rooms, and open office space for approximately 6 clerical staff, 2 LTE's and several student workers. Ceilings will be replaced and new energy efficient lighting fixtures installed to accommodate the new office configuration. Floors will be refinished, replaced, or carpeted as needed to provide a warm and durable surface. Asbestos floor tiles and floor underlayment will be removed as required by building code.

The electrical systems will be expanded to provide lighting and power outlets to operate computers and other office equipment. Installation of voice/data outlets will also be provided.

4. Justification: The Agricultural Hall Renovation project was approved at \$249,000 by the Board of Regents in May 1997 and the State Building Commission in June 1997 to remodel space that is occupied by the Office of Academic Student Affairs (ASA) in the College of Agricultural and Life Sciences. The space is poorly configured and limits the effectiveness of staff in delivering services to students. The physical environment is inconsistent with the quality of education offered by the College and presents a poor image to prospective students, their parents and alumni. In addition, the space does not meet the needs and standards of businesses who interview students for employment.

Additional work is proposed at this time to more efficiently and effectively upgrade the entire office area. The existing air handling

unit is at the end of its useful life and only serves the central area of the first floor of the west wing. The proposed unit will serve the central area as well as perimeter spaces and eliminate the cost of operating and maintaining individual fan coil units in each of the 14 perimeter rooms. Replacement and upgrade at this time will guarantee a reliable, efficient unit to serve the entire wing.

Replacing and upgrading of the air handling unit will require removal of the existing ductwork and individual ceiling coil fans in the perimeter rooms and fabrication of new ducts to supply air to the central and perimeter areas. As a result of the required ceiling work in the perimeter areas, new ceilings and lighting fixtures will be installed. The rooms will also be painted and carpeted.

5. Budget:

	Previously <u>Approved</u>	Revised <u>Budget</u>
Construction	\$172,000	\$246,000
A/E Design & Other Fees	22,500	26,500
DFD Supervision	7,500	10,600
Contingency	17,000	19,900
Telecommunications, Asbestos Abatement & Carpeting	30,000	55,000
Percent for the Arts	<u>0</u>	<u>1,000</u>
Estimated Total Project Cost	\$249,000	\$359,000

6. Previous Action:

May 9, 1997	Authorized construction of the Agricultural Hall
Resolution #7442	Remodeling for Student Academic Affairs project at an estimated total project cost of \$249,000, using Gift Funds.

Authority to Construct a
1999-2000 Eagle Heights
Apartments Remodeling Project,
UW-Madison

PHYSICAL PLANNING AND FUNDING COMMITTEE

Resolution:

That, upon the recommendation of the UW-Madison Chancellor and the President of the University of Wisconsin System, authority be granted to construct a 1999-2000 Eagle Heights Apartments Remodeling project including units in Buildings 404, 407, 801-808, 939 (C-F), 942 (A, B, E & F), 943 (A-D), 945 and 946, at an estimated total project cost of \$3,517,000 (\$1,700,000 Program Revenue Supported Borrowing and \$1,817,000 Program Revenue-Cash).

THE UNIVERSITY OF WISCONSIN SYSTEM

Agency Request for
Board of Regents Action

March 1998

1. Institution: The University of Wisconsin - Madison
2. Request: Requests authority to construct a 1999-2000 Eagle Heights Apartments Remodeling project including units in Buildings 404, 407, 801-808, 939 (C-F), 942 (A, B, E & F), 943 (A-D), 945 and 946, at an estimated total project cost of \$3,517,000 (\$1,700,000 Program Revenue Supported Borrowing and \$1,817,000 Program Revenue-Cash).
3. Description and Scope of Project: Under the proposed project, a total of 92 units will be remodeled, including 20 one-bedroom, 64 two-bedroom and 8 three-bedroom units. Not all of the apartment units can be vacated at one time; therefore, remodeling will be accomplished as two separately bid groups and implemented at intervals over the year. All work will be designed and bid as one project. Four apartments in Buildings 807 and 808 will be remodeled to provide accessibility. Buildings 404, 407, 942, 943, 945 and 946 will constitute the first renovation phase. The second phase will consist of Buildings 801-808 and 939 and follow the same plan as the first phase.

The following work will be done in all the units:

- A. Asbestos Abatement: Asbestos-containing asphalt tile and 1/4" plywood underlayment covered with asbestos-containing adhesive will be removed. Window spandrels (cement/asbestos board) will be cut to provide openings for air conditioner sleeves. Piping insulation containing asbestos will be removed.
- B. Flooring: The living room and bedrooms will be carpeted, and vinyl flooring will be installed in the kitchen, dining area, bathroom and apartment entry.
- C. Kitchens: One-piece compact kitchens will be replaced with free-standing appliances and wood cabinets in a more efficient arrangement. A double stainless steel sink, ceramic tile wall surfaces and solid, non-porous counter top materials will be installed for improved durability and easier maintenance. Lighting will be improved.
- D. Windows: Oversized, low quality windows will be replaced with smaller units that are better insulated and more energy efficient.
- E. Building Exteriors: Soffits, fascias and entrance canopies will be covered with pre-finished aluminum. Cement/asbestos spandrel panels will be encapsulated with insulation and a prefabricated stone finish.
- F. Closets/Doors: Bamboo curtains will be replaced with bi-folding doors. Some interior doors will be replaced.

- G. Bathrooms: All damaged or badly worn fixtures and fittings will be replaced. Additional storage space will be provided. Wall surfaces will be primarily ceramic tile.
 - H. Plumbing: Water lines located in the exterior walls of end units will be relocated to interior chases and insulated to prevent winter freezing.
 - I. Laundries: Electrical power will be increased and additional plumbing will be installed to accommodate supplemental washer and dryer units to better meet the tenants' needs. Laundry hook-ups will be installed in three-bedroom units.
 - J. Painting: Entire building interiors and exterior doors will be painted. Minor exterior painting will also be undertaken.
 - K. Landscaping: Landscaping around buildings will be re-graded to correct drainage problems. Damaged sidewalks will be replaced. ADA sidewalk routes will be developed where required for accessible apartment buildings.
 - L. Electrical: Existing panels will be upgraded to meet code, and 100 amp service will be installed where possible. All receptacles will be grounding-type, and ground-fault interrupters will be installed in kitchens and bathrooms.
 - M. Heating: New fin-tube radiation will be installed where needed. Zone valves will be replaced where needed, and system isolation valves will be installed to facilitate service/repair to apartments without shutting down the entire building.
 - N. Structural Corrections: Openings created by the replacement of the old, larger window units will be filled in with structural members, sheathing, insulation and wallboard. Rotted structural members will be replaced. Cracks in foundation walls will be patched and sealed.
 - O. Air Conditioning Sleeves: An insulated sleeve will be installed to allow occupants to add air conditioning if so desired.
 - P. Phone/Data/Video: Communication wiring will be upgraded to provide multiple phone/data/video line capabilities.
4. Justification of the Project: This project continues the apartment renovations of Student Family Housing as presented in the Family Housing Master Plan of 1988. There are 1,122 apartments in the Family Housing and Harvey Street complexes. To date, 634 apartments have been remodeled, and 46 are in the process of being remodeled. In May 1997, 96 additional units were authorized for remodeling during 1998 and 1999.

The 1988 Master Plan targeted completion of apartment remodeling for the year 2000. In December 1991, the Master Plan was informally revised, forecasting completion of the project for 2003-4. A maintenance plan has been developed and implemented for both unrenovated and remodeled apartments, and the remodeling work has been accelerated by one year in response to the 1992 Legislative Audit Bureau review, with completion planned for 2002-3. The UW-Madison Student Family Housing Revised Master

Plan and Continuous Maintenance Plan was presented to and accepted by the Board of Regents in December 1993.

The two-story Eagle Heights Apartment Units included in this project were constructed in 1959 (400's), 1965 (800's), and 1966 (900's). The remodeling of these buildings will improve the appearance and functionality of the apartments for the tenants. Installation of new windows, modifications to the mechanical systems, and installation of new finishes will reduce energy consumption and facilitate maintenance of the apartments.

The 1997-98 rental rates for unremodeled and remodeled apartments within the Eagle Heights complex were presented to the Board of Regents in July 1997 for approval as part of the UW System's 1997-98 Operating Budget. As shown below, the overall average of current rates for the Eagle Heights units continue to be competitive with the average rate for comparable apartments in the Big 10. The average of current rates for Eagle Heights are approximately 21.6% less than the Madison Area average for one-bedroom apartments, 27.5% less than two-bedroom units, and 41.8% less than three-bedroom units.

COMPARISON OF ONE-, TWO- AND THREE-BEDROOM RENTAL RATES

<u>Eagle Heights</u>	<u>1996-97</u>	<u>1997-98</u>	<u>Percent Change</u>
Unremodeled			
One-Bedroom	\$356/mo	\$367/mo	3.1% Increase
Two-Bedroom	\$425/mo	\$438/mo	3.1% Increase
Three-Bedroom	\$508/mo	\$523/mo	3.0% Increase
Remodeled			
One-Bedroom	\$441/mo	\$454/mo	2.9% Increase
Two-Bedroom	\$528/mo	\$544/mo	3.0% Increase
Three-Bedroom	\$631/mo	\$650/mo	3.0% Increase
<u>Big Ten Average</u>			
One-Bedroom	\$381/mo	\$450/mo	18.1% Increase
Two-Bedroom	\$474/mo	\$530/mo	11.8% Increase
Three-Bedroom	\$566/mo	\$611/mo	8.0% Increase
<u>Madison Area Average</u>			
One-Bedroom	\$485/mo	\$519/mo	7.0% Decrease
Two-Bedroom	\$608/mo	\$702/mo	15.5% Decrease
Three-Bedroom	\$808/mo	\$959/mo	18.7% Increase

5. Budget: The following budget is based upon actual costs of similar, completed apartment renovations:

Construction:	\$3,088,000
A/E Fee:	194,000
DFD Supervision:	129,000
Printing, Testing & Fees:	12,000
Contingency:	<u>94,000</u>
Estimated Total Project Cost:	\$3,517,000

6. Previous Action:

May 1988: Accepted the UW-Madison Student Family Housing Master Plan.

December 1993: Accepted the Student Family Housing Revised Master Plan and Continuous Maintenance Plan.

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Authority to Transfer Ownership of
the Northeast Family Practice
Clinic and "Conceptual" Approval of
a Lease Negotiation, UW-Madison

PHYSICAL PLANNING AND FUNDING COMMITTEE

Resolution:

That, upon the recommendation of the UW-Madison Chancellor and the President of the University of Wisconsin System, (a) authority be granted to transfer ownership of the Northeast Family Practice Clinic to the Madison Family Medicine Residency Corporation; and (b) "conceptual" approval be granted for the Department of Administration to negotiate a lease with the Corporation on behalf of the UW-Madison Medical School Department of Family Medicine and Practice based upon results of a Request for Proposal (RFP) for a Northeast Family Practice Clinic Renovation/Expansion or Clinic Replacement project.

THE UNIVERSITY OF WISCONSIN SYSTEM

Agency Request for
Board of Regents Action

March 1998

1. Institution: University of Wisconsin - Madison
2. Request: (a) authority to transfer ownership of the Northeast Family Practice Clinic to the Madison Family Medicine Residency Corporation; and (b) conceptual approval for the Department of Administration to negotiate a lease with the Corporation on behalf of the UW-Madison Medical School Department of Family Medicine and Practice based upon results of a Request for Proposal (RFP) for a Northeast Family Practice Clinic Renovation/Expansion or Clinic Replacement project.
3. Description and Scope of Project: Authority is being requested to transfer ownership of the existing Northeast Family Practice Clinic, located at 3209 Dryden Drive in Madison, to the Madison Family Medicine Residency Corporation, a 501c(3) organization. Ownership will enable the Corporation to implement an RFP process to explore the most cost-effective means of substantially improving this deteriorated facility. Use of this 501c(3) corporation has been previously approved by the Board of Regents and State Building Commission for clinic projects at Belleville and Verona.

The Corporation, with the assistance of a consultant, is considering two alternatives. The first would provide a comprehensive renovation and small addition to the existing facility. The second option would replace the current building with a new, slightly larger facility on the existing site. Either alternative would require that the project be phased in such a way that the Department can continue clinic operations during the construction with appropriate patient access to the clinic and ancillary parking.

This proposal also seeks conceptual approval for the University of Wisconsin Medical School Department of Family Medicine to enter into a lease-back agreement that would be negotiated between the Department of Administration and the Corporation for an amount not to exceed the amortized costs of the existing debt service and future costs incurred for the facility improvements. Lease payments by the Department will be funded from clinic program receipts. When specific terms of the lease agreement are known, a request will be submitted for approval by the Board of Regents and State Building Commission. It is anticipated that final approval will be sought in June 1998 to enable implementation of facility improvements by fall 1998.

4. Justification: The Northeast Clinic facility was constructed and leased for the Department of Family Medicine in 1976. It was acquired by the University in 1981 using Program Revenue Bonds at a cost of \$962,000, which included the \$790,000 acquisition cost and \$190,000 to fund subsequent remodeling needs. The bonds, which are being amortized by the Department of Family Medicine from program revenue, will be fully

amortized by the year 2008. Annual payments are \$55,000, and the debt service balance at the end of the current fiscal year is estimated at just over \$600,000.

The existing one-story building consists of approximately 23,000 SF plus a small basement. The number of annual patient visits has climbed to approximately 20,000, and there are 37 FTE faculty, residents and staff working in the facility. The building has serious mechanical and maintenance deficiencies involving the heating, ventilating, and air conditioning systems. The roof is in critical need of replacement and cannot withstand another winter season. Electrical and plumbing systems also require major upgrades. Existing exam room layouts are inefficient, and both interior and exterior finishes reflect the wear and tear of more than 20 years of operation.

In addition to addressing the infrastructure issues, there is a need to provide approximately 5,500 SF to meet a shortage of patient care space, which is projected to increase to 30,000 clinic visits annually. Office space is also required for an additional 6 faculty and staff who currently have offices at St. Mary's Hospital.

The UW Medical School Department of Family Medicine was created over 20 years ago to train family physicians in the State of Wisconsin. The Department currently has five residency programs which are affiliated with community hospitals to train family physicians. These programs are located in Appleton, Eau Claire, Madison, Milwaukee and Wausau. In addition, the Madison Family Practice Residency Program consists of five Family Practice Clinics, including Belleville, Northeast Madison, Wingra, Verona and the Research Park. Family Practice Clinics offer an educational setting that provides clinical training for family practice residents and third-year medical students while providing care to local patients. Over 500 family physicians have graduated from the residency programs since the inception of the Department of Family Medicine. Two-thirds of those Certified Family Physicians continue to practice in the State of Wisconsin, and 60% practice in communities with a population of less than 10,000.

In 1979, a nonprofit corporation was used in the establishment of the Appleton Family Practice Clinic. Following that model, the Madison Family Medicine Residency Corporation was established in 1993 with the express purpose of providing facilities for the Department of Family Medicine's Madison Residency Program.

The Family Medicine Residency Corporation is a private/public partnership involving the Dean Medical Center, representatives from the communities of Belleville, Madison and Verona and several ex-officio members of the university Community, including the CEO of the Medical Foundation, the CEO of the UW Hospital Authority, the Dean of the Medical School, and the Chair of the Department of Family Medicine. This nonprofit corporation provides a structure to secure monies from private donors that benefit the Department and the State by reducing the cost of clinical facilities.

The use of the 501c(3) Corporation is proposed for this project for two reasons. First, the facility will require major additional repair expenditures if construction cannot be initiated in 1998. Secondly, the Corporation has received financial commitments of \$150,000/year for the first five years of the new/improved facility. This financial commitment will reduce the cost of the future lease proposal.

The Department of Family Medicine is committed to its multiple missions of teaching residents and medical students, advancing the discipline and knowledge of basic family practice specialties through research and other scholarly activity, and providing quality patient care. To effectively fulfill these missions, the Department needs adequate clinic facilities that serve as model clinics for the training of residents and students, and that meet patients' expectations.

5. Previous Action:

October 10, 1980 Resolution #2260	Authorized the purchase of the Northeast Madison Family Practice Clinic at a cost of \$790,000 and authority to undertake a Northeast Family Practice Clinic Remodeling project, at an estimated project cost of \$190,000, for a total project cost of \$980,000, using Self-Amortizing Bonding.
September 12, 1975 Resolution #1081	Authorized a lease with the Flad Development and Investment Corporation for a new facility on Madison's northeast side for a UW-Madison Medical School Family Practice Clinic program for an initial period from January 1, 1976 to January 1, 1981, at an annual cost of \$75,500.

Authority to Construct a Physical
Education Building Addition and
Remodeling - Phase 2 project,
UW-Parkside

PHYSICAL PLANNING AND FUNDING COMMITTEE

Resolution:

That, upon the recommendation of the UW-Parkside Chancellor and the President of the University of Wisconsin System, authority be granted to construct a Physical Education Building Addition and Remodeling - Phase 2 project, at an estimated total project cost of \$6,013,500 (\$4,813,500 General Fund Supported Borrowing and \$1,200,000 Program Revenue Borrowing).

UNIVERSITY OF WISCONSIN SYSTEM
Agency Request for
Board of Regents Action

March 1998

1. Institution: The University of Wisconsin - Parkside
2. Request: Requests approval of the Design Report and authority to construct a Physical Education Building Addition and Remodeling - Phase 2 project, at an estimated total project cost of \$6,013,500 (\$4,813,500 General Fund Supported Borrowing and \$1,200,000 Program Revenue Borrowing).
3. Description and Scope of Project: Phase 2 of the Physical Education Addition and Remodeling project includes construction of a fieldhouse addition which will provide an interior ground level running track, a loading dock and service maintenance storage area, and an equipment issue/laundry room/storage area. This phase also involves remodeling of existing physical education facility space. Work will include minor renovation of two existing racquetball courts, renovation of the existing combative classroom to provide three additional racquetball courts, renovation of the existing equipment issue room into a combatives classroom, and remodeling of a second floor hallway to provide additional student/staff offices and a media room.

Phase 1, authorized for construction in March 1996, includes construction of a two-story addition and remodeling. This phase includes additional space on the ground level for a new main entrance lobby/concession area, two locker rooms, training room, equipment issue room, weight room and some storage; and on the upper floor for classrooms, dance studio, aerobic fitness center and offices. Remodeling involves the existing locker room areas on the ground level and a few offices on the upper floor. Central campus utility extensions are also included in the Phase I project scope.

It is intended that both phases of the project be combined and bid as one project in May, 1998. According to the Design Report, the combined project will construct a total of approximately 96,153 ASF and remodel about 11,331 ASF of existing space in the physical education building.

4. Justification of the Project: The Physical Education Building Addition and Remodeling project, advanced by the Board of Regents as part of the 1995-97 Capital Budget, totaled \$9.1 million. The Building Commission deleted the fieldhouse, and approved a Phase I project at a revised cost of \$4,465,000. Phase I was authorized for construction by the Building Commission in March 1996 at an increased project budget of \$5,900,000. Phase 2 of the project was enumerated in the 1997-99 Capital Budget at a budget of \$6,013,500. A detailed justification of the project was provided at that time. Funds were released last September by the Building Commission to prepare preliminary plans and a Design Report.

To demonstrate their support of this project, on April 15, 1994, UW-Parkside students approved an increased segregated fee of \$8 per semester, effective September 1994 through the year 2014. The total student contribution for both phases is \$700,000. The Parking Fund will contribute \$100,000 toward the construction of the 300-car parking lot included in Phase 2. The gift contribution for the combined project is \$1,070,000, for a total non-GPR contribution of \$1,870,000. While Program Revenue Borrowing has been requested for the entire non-GPR portion of the Phase 2 project cost, it is expected that the amount actually bonded will be less than the amount requested since some segregated funds and gift funds are already in hand. By the time construction occurs, it is expected that additional gift funds will be available which will reduce the actual amount of bonding required.

5. Budget: The recommended budget identified in the consultant's Design Report is as follows:

	Phase 1 (Prev. Auth.)	Phase 2 (This request)	TOTALS
1. Construction:			
a. Addition:	\$3,750,000	\$4,232,000	\$7,982,000
b. Remodeling:	500,000	237,000	737,000
c. Site & Utilities:	<u>800,000</u>	<u>375,000</u>	<u>1,175,000</u>
d. Total Construction:	\$5,050,000	\$4,844,000	\$9,894,000
2. Design and Fees:	400,000	437,100	837,100
3. DFD Supervision (4%):	200,000	226,000	426,000
4. Special/Moveable Equip:	0	177,000	177,000
5. Telecommunications:	0	25,000	25,000
6. Contingency:	250,000	280,500	530,500
7. Percent for Art (.2%):	<u>0</u>	<u>23,900</u>	<u>23,900</u>
8. Estimated Total Cost:	\$5,900,000	\$6,013,500	\$11,913,500

6. Previous Action:

December 11, 1992
Resolution #6292 Recommended that the Physical Education Building Addition and Remodeling project, estimated at a total of \$8,585,000 (\$7,297,250 of General Fund Supported Borrowing and \$1,287,250 of Gifts/Grants/Program Revenues) be approved for Advanced Planning, as part of the 1993-95 Capital Budget.

August 19, 1994
Resolution #6735 Recommended that the Physical Education Building Addition and Remodeling project be approved for construction at an estimated total project cost of \$9,100,000 (\$7,735,000 General Fund Supported Borrowing and \$1,365,000 Program Revenue Borrowing), as part of the 1995-97 Capital Budget.

March 8, 1996
Resolution #7162

Recommended authority to increase the project budget by \$1,535,000 of General Fund Supported Borrowing and to construct the Physical Education Building Addition and Remodeling - Phase I project at a revised estimated total project cost of \$6,000,000 (\$5,330,000 General Fund Supported Borrowing and \$670,000 Gifts).

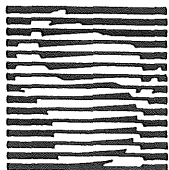
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Revisions to Chapter UWS 18,
Wisconsin Administrative Code

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

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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

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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 ☒

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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.