



**Board of Regents of the University of Wisconsin System**  
**Office of the Secretary**  
1860 Van Hise Hall  
Madison, Wisconsin 53706  
(608)262-2324

July 26, 2006

TO: Each Regent

FROM: Judith A. Temby

A handwritten signature in black ink, appearing to read 'J. A. Temby', written over the printed name.

**PUBLIC MEETING NOTICE**

RE: Agendas and supporting documents for meeting of the Board to be held at UW-Madison on August 2, 2006.

Wednesday, August 2, 2006

9:00 a.m. – Public Hearing on Proposed Faculty/Academic Staff Disciplinary  
Process Rules  
1820 Van Hise Hall

10:00 a.m. – Board of Regents Meeting  
1820 Van Hise Hall

*Persons with disabilities requesting an accommodation to attend are asked to contact Judith Temby in advance of the meeting at (608) 262-2324.*

*Information regarding agenda items can be found on the web at <http://www.uwsa.edu/bor/meetings.htm> or may be obtained from the Office of the Secretary, 1860 Van Hise Hall, Madison, Wisconsin 53706 (608)262-2324.*

*The meeting will be webcast at <http://www.uwex.edu/ics/stream/regents/meetings/> Wednesday, August 2, 2006, at 10:00 a.m. until approximately 12:00 p.m.*

**Notice of Hearing**  
**Board of Regents of the University of Wisconsin System**

NOTICE IS HEREBY GIVEN that pursuant to ss. 36.09(1), 36.11(1) and 36.13(3), Stats., the Board of Regents of the University of Wisconsin System will hold a public hearing in Room 1820 Van Hise Hall, 1220 Linden Drive, in the City of Madison, Wisconsin on August 2, 2006 at 9:00 a.m. to consider the creation of rules relating to the dismissal of faculty and academic staff in special cases. Persons with disabilities requesting an accommodation to attend are asked to contact Judith Temby in advance of the hearing at (608) 262-2324.

**Analysis prepared by the Board of Regents of the University of Wisconsin System.**

Statutes interpreted: Sections 36.09(1), 36.11(1) and 36.13(3), Stats.

Statutory authority: Sections 36.09(1), 36.11(1) and 36.13(3), Stats.

Explanation of agency authority: The Board of Regents of the University of Wisconsin System has the authority under Sections 36.09(1), 36.11(1) and 36.13(3), Stats., to issue rules for the dismissal of faculty and academic staff members.

Related statute or rule: Current Wis. Admin. Code chs. UWS 4 and UWS 11.

Plain language analysis: The purpose of the proposed rules is to add provisions to Board rules regarding dismissal of faculty and academic staff to deal specifically with circumstances in which faculty and academic staff members have engaged in serious criminal misconduct, a category of just cause under the rule. The proposed rules would define serious criminal misconduct, provide protection for constitutionally-protected conduct, expression, or beliefs, and assure adequate due process in the dismissal proceedings.

SECTION 1 amends s. UWS 2.02 to provide that rules and procedures developed pursuant to ch. UWS 7 by the faculty of each institution shall be forwarded by the chancellor to the president and by the president to the board for its approval prior to their taking effect.

SECTION 2 creates ch. UWS 7 relating to dismissal of university faculty members who engage in serious criminal misconduct. SECTION 2 also defines “serious criminal misconduct”, and provides that constitutionally-protected conduct, expression, or belief do not constitute serious criminal misconduct. SECTION 2 establishes expedited procedures for investigation and dismissal of faculty members who engage in serious criminal misconduct. SECTION 2 provides that a chancellor, after consultation with appropriate faculty governance representatives, may suspend a faculty member from duties without pay pending the final decision as to his or her dismissal in appropriate circumstances.

SECTIONS 3 AND 4 amend ch. UWS 11 to provide that just cause for dismissal of members of the academic staff includes “serious criminal misconduct” as defined in SECTION 5.

SECTION 5 amends ch. UWS 11 to provide for dismissal of members of the academic staff who engage in serious criminal misconduct. SECTION 5 also defines “serious criminal misconduct”, and provides that constitutionally-protected conduct, expression, or belief do not constitute serious criminal misconduct. SECTION 5 establishes expedited procedures for investigation and dismissal of members of the academic staff who engage in serious criminal misconduct. SECTION 5 provides that a chancellor, after consultation with appropriate academic staff governance representatives, may suspend a faculty member from duties without pay pending the final decision as to his or her dismissal in appropriate circumstances.

Copies of the text of the rule may be obtained at no charge from the Office of the Board of Regents, 1860 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706.

Summary of, and comparison with, existing or proposed federal regulations: There is no existing or proposed federal regulation for summary and comparison.

Comparison with rules in adjacent states. There are no corresponding rules in adjacent states for comparison.

Summary of factual data and analytical methodologies: There were no factual data or analytical methodologies used to develop the proposed rules.

Analysis and supporting documents used to determine effect on small business: The proposed rules affect only faculty and academic staff of the University of Wisconsin System. They have no effect on small business.

Effect on small business: The proposed rules will have no effect on small business.

Fiscal estimate: The proposed rules will have no fiscal effect.

Agency contact person: Christopher L. Ashley, Senior System Legal Counsel, University of Wisconsin System Administration, 1808 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706. Telephone: (608) 262-3662. Email: [cashley@uwsa.edu](mailto:cashley@uwsa.edu).

Place where comments are to be submitted and deadline for submission: Comments may be submitted to: Christopher L. Ashley, Senior System Legal Counsel, University of Wisconsin System Administration, 1808 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706. Email to [cashley@uwsa.edu](mailto:cashley@uwsa.edu). The deadline for written comments to the Board is 4:30 p.m. on September 29, 2006.

[g:regents/agenda/august2/publichearing](http://g:regents/agenda/august2/publichearing)

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

[INTRODUCTORY CLAUSE]

The Board of Regents of the University of Wisconsin System proposes an order to amend UWS 2.02 and UWS 11.01(1); to create ch. UWS 7, relating to procedures for dismissal of faculty in special cases; and to create UWS 11.01(3), UWS 11.101, UWS 11.102, UWS 11.103, UWS 11.104, UWS 11.105 and UWS 11.106, relating to procedures for dismissal of academic staff in special cases.

[RULE SUMMARY]

1. Statute interpreted: Sections 36.09(1), 36.11(1) and 36.13(3), Stats.
2. Statutory authority: Sections 36.09(1), 36.11(1) and 36.13(3), Stats.
3. Explanation of agency authority: The Board of Regents of the University of Wisconsin System has the authority under Sections 36.09(1), 36.11(1) and 36.13(3), Stats., to issue rules for the dismissal of faculty and academic staff members.
4. Related statute or rule: Current Wis. Admin. Code chs. UWS 4 and UWS 11.
5. Plain language analysis: The purpose of the proposed rules is to add provisions to Board rules regarding dismissal of faculty and academic staff to deal specifically with circumstances in which faculty and academic staff members have engaged in serious criminal misconduct, a category of just cause under the rule. The proposed rules would define serious criminal misconduct, provide protection for constitutionally-protected conduct, expression, or beliefs, and assure adequate due process in the dismissal proceedings.
6. Summary of, and comparison with, existing or proposed federal regulations: There is no existing or proposed federal regulation for summary and comparison.
7. Comparison with rules in adjacent states. There are no corresponding rules in adjacent rules for comparison.
8. Summary of factual data and analytical methodologies: There were no factual data or analytical methodologies used to develop the proposed rules.
9. Analysis and supporting documents used to determine effect on small business: The proposed rules affect only faculty and academic staff of the University of Wisconsin

System. They have no effect on small business.

10. Effect on small business: The proposed rules will have no effect on small business.

11. Fiscal estimate: The proposed rules will have no fiscal effect.

12. Agency contact person: Christopher L. Ashley, Senior System Legal Counsel, University of Wisconsin System Administration, 1808 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706. Telephone: (608) 262-3662. Email: [cashley@uwsa.edu](mailto:cashley@uwsa.edu).

13. Place where comments are to be submitted and deadline for submission: Comments may be submitted to: Christopher L. Ashley, Senior System Legal Counsel, University of Wisconsin System Administration, 1808 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706. Email to [cashley@uwsa.edu](mailto:cashley@uwsa.edu). The deadline for written comments to the Board is 4:30 p.m. on September 29, 2006.

[TEXT OF RULE]

SECTION 1. UWS 2.02 is amended to read:

**UWS 2.02 Delegation.** Rules and procedures developed pursuant to chs. UWS 3, 4, 5, 6, 7, and 8 by the faculty of each institution shall be forwarded by the chancellor to the president and by the president to the board for its approval prior to their taking effect. Such policies and procedures, unless disapproved or altered by the regents, shall be in force and effect as rules of the regents.

SECTION 2. UWS 7.01, 7.02, 7.03, 7.04, 7.05, 7.06 and 7.07 are created to read:

**UWS 7.01 Declaration of policy.** University faculty members are responsible for advancing the university's missions of teaching, research and public service. The fulfillment of these missions requires public trust in the integrity of the institution and in all members of the university community. The university's effectiveness and credibility are undermined by criminal activity that poses a substantial risk to the safety of others, that seriously impairs the public trust in the university or the university's ability to fulfill its missions, or seriously impairs the faculty member's fitness or ability to fulfill his or her duties. Situations involving such serious criminal misconduct by faculty members must be addressed and resolved promptly to ensure that public trust is maintained and that the university is able to advance its missions. The board of regents therefore adopts the procedures in this chapter for identifying and responding to those instances in which a faculty member has engaged in serious criminal misconduct.

**UWS 7.02 Serious criminal misconduct.** (1) In this chapter, "Serious Criminal Misconduct" means:

(a) Being charged with, pleading guilty or no contest to, or being convicted of a felony, in state or federal court, that involves:

1. Causing serious physical injury to another person;
2. Creating a serious danger to the personal safety of another person;
3. Sexual assault;
4. Theft, fraud or embezzlement;
5. Criminal damage to property; or
6. Stalking or harassment; and that

(b) Clearly poses a substantial risk to the safety of members of the university community or others; or

(c) Seriously impairs:

1. The public trust in the university;
2. The university's ability, or the ability of the charged faculty member's colleagues, to fulfill teaching, research or public service missions;
3. The charged faculty member's fitness or ability to fulfill the duties of his or her position; or
4. The opportunity of students to learn, do research, or engage in public service.

(2) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, shall not constitute Serious Criminal Misconduct.

(3) Except as otherwise expressly provided, a faculty member who has engaged in behavior that constitutes Serious Criminal Misconduct shall be subject to the procedures set forth in ss. UWS 7.03-7.06.

(4) Any act required or permitted by ss. UWS 7.03-7.06 to be done by the chancellor may be delegated to the provost or another designee pursuant to institutional policies approved by the Board of Regents under s. UWS 2.02.

**UWS 7.03 Dismissal for cause.** (1) Any faculty member having tenure may be dismissed only by the board and only for just cause and only after due notice and hearing. Any faculty member having a probationary appointment may be dismissed prior to the end of his or her term of appointment only by the board and only for just cause and only after due notice and hearing.

(2) Just cause for dismissal includes, but is not limited to, Serious Criminal Misconduct, as defined in s. UWS 7.02.

**UWS 7.04 Reporting responsibility.** Any faculty member who is charged with, pleads guilty or no contest to, or is convicted of a felony, in state or federal court, shall immediately report that fact to the chancellor.

**UWS 7.05 Expedited process.** (1) Whenever the chancellor of an institution within the university of Wisconsin system receives a report under s. UWS 7.04 or other credible information that a faculty member has engaged in Serious Criminal Misconduct, or where the chancellor has determined to impose a suspension without pay pending the final decision as to dismissal under s. UWS 7.06, the chancellor shall:

(a) Within three working days of receipt of the report or information, inform the faculty member of its receipt and, after consultation with appropriate institutional governance representatives, appoint an investigator to investigate the report or information;

(b) Upon appointing an investigator, afford the faculty member three working days in which to request that the investigator be disqualified on grounds of lack of impartiality. In the event that the chancellor determines that a request for disqualification should be granted, the chancellor shall, within two working days of the determination, appoint a different investigator.

(2) The investigation shall be completed and a report filed with the chancellor not later than ten working days following the time allowed for the faculty member to request an investigator's disqualification, or the naming of a different investigator, whichever is later.

(3) Within three working days of receipt of the investigator's report, the chancellor shall consult with appropriate institutional governance representatives and decide whether to seek dismissal of the faculty member pursuant to this chapter, to seek dismissal of the faculty member pursuant to ch. UWS 4, to seek an alternative disciplinary sanction, or to discontinue the proceedings.

(a) If the chancellor decides to seek dismissal of the faculty member pursuant to this chapter, the chancellor shall file charges within two working days of reaching the decision.

(b) If the chancellor decides to seek dismissal of the faculty member pursuant to ch. UWS 4, the chancellor shall file charges and proceed in accordance with the provisions of that chapter and implementing institutional policies.

(c) If the chancellor decides to seek an alternative disciplinary sanction, the procedures under ch. UWS 6, and implementing institutional policies, shall be followed.

(4) If charges seeking dismissal are filed under par. (3)(a), the faculty member shall be afforded a hearing before the institutional standing committee charged with hearing dismissal cases and making recommendations under s. UWS 4.03. The hearing shall provide the procedural guarantees enumerated under s. UWS 4.05-4.06, except that the hearing must be concluded, and written findings and a recommendation to the chancellor must be prepared, within 15 working days of the filing of charges.

(5) Upon receipt of the findings and recommendation of the committee under par. (4), the chancellor shall, within three working days, prepare a written recommendation on the matter.

(a) If the chancellor's recommendation is for dismissal, the recommendation shall be transmitted to the board of regents for review.

(b) Disciplinary action other than dismissal may be taken by the chancellor, whose decision shall be final, unless the board at its option grants a review on the record at the request of the faculty member.

(6) Upon receipt of the chancellor's recommendation, the full board shall review the record before the institutional hearing committee, and may offer an opportunity for filing exceptions to the recommendation, or for oral argument. The full board shall issue its decision on the matter within 15 working days of receipt of the chancellor's recommendation.

(7) If a faculty member whose dismissal is sought under par. (3)(a) does not request a hearing, the board shall take appropriate action within 10 working days of receipt of the statement of charges and the recommendation of the chancellor.

(8) The burden of proving just cause in this chapter shall be clear and convincing evidence.

(9) (a) The time limits set forth in this section may be enlarged if the parties are unable to obtain, in a timely manner, relevant and material testimony, physical evidence or records, or where due process otherwise requires.

(b) Enlargements of time under this section may be granted by the chair of the faculty hearing body, subject to the approval of the chancellor.

**UWS 7.06 Temporary suspension from duties.** (1) The chancellor, after consultation with appropriate faculty governance representatives, may suspend a faculty member from duties without pay pending the final decision as to his or her dismissal where:

(a) The faculty member has been charged with a felony and the chancellor finds, in addition, that one or more of the elements of serious criminal misconduct listed in s. UWS 7.02(1) are present, and that there is a substantial likelihood that the faculty member has engaged in the conduct as alleged; or

(b) The faculty member is unable to report for work due to incarceration, conditions of bail or similar cause; or

(c) The faculty member has been convicted of serious criminal misconduct.



(2) Before imposing a suspension without pay, the chancellor shall evaluate the available information to determine whether the conditions specified in par. (1) are present. If the chancellor finds that the conditions in par. (1) are present, he or she shall immediately notify the faculty member, in writing, of the intent to impose a suspension without pay, and shall, within two working days, provide the faculty member with an opportunity to be heard with regard to the matter. The faculty member may be represented by counsel or another at this meeting.

(3) If, after affording the faculty member the opportunity to be heard, the chancellor determines to suspend without pay, the chancellor shall inform the faculty member of the suspension, in writing. The chancellor's decision to suspend without pay under this section shall be final, except that:

(a) If the chancellor later determines that the faculty member should not be terminated, the chancellor may discontinue the proceedings, or may recommend a lesser penalty to the board, or may order the payment of back pay, as appropriate;

(b) If the board later determines that the faculty member should not be terminated, the board may order a lesser penalty and/or the payment of back pay.

(4) If, after affording the faculty member the opportunity to be heard, the chancellor determines that the conditions in par. (1) are not present or that a suspension without pay is otherwise not warranted, the provisions of s. UWS 4.09 shall apply.

**UWS 7.07 Initial Applicability.** The provisions of this chapter shall first be applicable to conduct occurring on or after the effective date.

SECTION 3. UWS 11.01(1) is amended to read:

(1) A member of the academic staff holding an indefinite appointment may be dismissed only for just cause under ss. UWS 11.02 through ~~11.10~~ 11.106 or for reasons of budget or program under ch. UWS 12.

SECTION 4. UWS 11.01(3) is created to read:

(3) Just cause for dismissal includes, but is not limited to, Serious Criminal Misconduct, as defined in s. UWS 11.102.

SECTION 5. UWS 11.101, 11.102, 11.103, 11.104, 11.105, and 11.106 are created to read:

**UWS 11.101 Dismissal for cause in special cases – indefinite academic staff appointments.** A member of the academic staff holding an indefinite appointment may be dismissed for Serious Criminal Misconduct, as defined in s. 11.102.

**UWS 11.102 Serious criminal misconduct.** (1) In this chapter, "Serious Criminal Misconduct" means:

(a) Being charged with, pleading guilty or no contest to, or being convicted of a felony, in state or federal court, that involves:

1. Causing serious physical injury to another person;
2. Creating a serious danger to the personal safety of another person;
3. Sexual assault;
4. Theft, fraud or embezzlement;
5. Criminal damage to property; or
6. Stalking or harassment; and that

(b) Clearly poses a substantial risk to the safety of members of the university community or others; or

(c) Seriously impairs:

1. The public trust in the university;
2. The university's ability, or the ability of the charged academic staff member's colleagues, to fulfill teaching, research or public service missions;
3. The charged academic staff member's fitness or ability to fulfill the duties of his or her position; or
4. The opportunity of students to learn, do research, or engage in public service.

(2) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, shall not constitute Serious Criminal Misconduct.

(3) Except as otherwise expressly provided, an academic staff member who has engaged in behavior that constitutes Serious Criminal Misconduct shall be subject to the procedures set forth in ss. UWS 11.103 – 11.106.

(4) Any act required or permitted by ss. UWS 11.103 - 11.106 to be done by the chancellor may be delegated to the provost or another designee pursuant to institutional policies forwarded to the Board of Regents under s. UWS 9.02.

**UWS 11.103 Reporting responsibility.** Any academic staff member who is charged with, pleads guilty or no contest to, or is convicted of a felony, in state or federal court, shall immediately report that fact to the chancellor.

**UWS 11.104 Expedited process.** (1) Whenever the chancellor of an institution within the University of Wisconsin System receives a report under s. UWS 11.103 or other credible information that an academic staff member has engaged in Serious Criminal Misconduct, or where the chancellor has determined to impose a suspension without pay pending the final decision as to dismissal under s. UWS 11.106, the chancellor shall:

(a) Within three working days of receipt of the report or information, inform the academic staff member of its receipt and, after consultation with appropriate institutional governance representatives, appoint an investigator to investigate the report or information;

(b) Upon appointing an investigator, afford the academic staff member three working days in which to request that the investigator be disqualified on grounds of lack of impartiality. In the event that the chancellor determines that a request for disqualification should be granted, the chancellor shall, within two working days of the determination, appoint a different investigator.

(2) The investigation shall be completed and a report filed with the chancellor not later than ten working days following the time allowed for the academic staff member to request an investigator's disqualification, or the naming of a different investigator, whichever is later.

(3) Within three working days of receipt of the investigator's report, the chancellor shall consult with appropriate institutional governance representatives and decide whether to seek dismissal of the academic staff member pursuant to ss. UWS 11.101- 11.106, to seek dismissal of the academic staff member pursuant to ss. UWS 11.02 - 11.10, to seek an alternative disciplinary sanction, or to discontinue the proceedings.

(a) If the chancellor decides to seek dismissal of the academic staff member pursuant to ss. UWS 11.101-11.106, the chancellor shall file charges within two working days of reaching the decision.

(b) If the chancellor decides to seek dismissal of the academic staff member pursuant to ss. UWS 11.02 -11.10, the chancellor shall file charges and proceed in accordance with the provisions of those sections of this chapter and implementing institutional policies.

(c) If the chancellor decides to seek an alternative disciplinary sanction, the procedures under ch. UWS 13, and implementing institutional policies, shall be followed.

(4) If charges seeking dismissal are filed under par. (3)(a), the academic staff member shall be afforded a hearing before the institutional standing committee charged with hearing dismissal cases and making recommendations under s. UWS 11.03. The hearing shall provide the procedural guarantees enumerated under ss. UWS 11.05-11.06, except that the hearing must be concluded, and written findings and a recommendation to the chancellor must be prepared, within 15 working days of the filing of charges.

(5) Upon receipt of the findings and recommendation of the committee under par. (4), the chancellor shall, within three working days, prepare a written decision on the matter. In the decision, the chancellor may order dismissal of the staff member, may impose a lesser disciplinary action, or may find in favor of the staff member. This decision shall be deemed final unless the Board, upon request of the academic staff member, grants a review based on the record.

(6) The burden of proving just cause in this section shall be clear and convincing evidence.

(7) (a) The time limits set forth in this section may be enlarged if the parties are unable to obtain, in a timely manner, relevant and material testimony, physical evidence or records, or where due process otherwise requires.

(b) Enlargements of time under this section may be granted by the chair of the academic staff hearing body, subject to the approval of the chancellor.

**UWS 11.105 Temporary suspension from duties.** (1) The chancellor, after consultation with appropriate academic staff governance representatives, may suspend a academic staff member from duties without pay pending the final decision as to his or her dismissal where:

(a) The academic staff member has been charged with a felony and the chancellor finds, in addition, that one or more of the elements of serious criminal misconduct listed in s. UWS 11.102(1) are present, and that there is a substantial likelihood that the academic staff member has engaged in the conduct as alleged; or

(b) The academic staff member is unable to report for work due to incarceration, conditions of bail or similar cause; or

(c) The academic staff member has been convicted of serious criminal misconduct.

(2) Before imposing a suspension without pay, the chancellor shall evaluate the available information to determine whether the conditions specified in par. (1) are present. If the chancellor finds that the conditions in par. (1) are present, he or she shall immediately notify the academic staff member, in writing, of the intent to impose a suspension without pay, and shall, within two working days, provide the academic staff member with an opportunity to be heard with regard to the matter. The academic staff member may be represented by counsel or another at this meeting.

(3) (a) If, after affording the academic staff member the opportunity to be heard, the chancellor determines to suspend without pay, the chancellor shall inform the academic staff member of the suspension, in writing. The chancellor's decision to suspend without pay under this section shall be final, except that:

(b) If the chancellor later determines that the academic staff member should not be terminated, the chancellor may discontinue the proceedings, or may impose a lesser penalty, or may order the payment of back pay, as appropriate;

(4) If, after affording the academic staff member the opportunity to be heard, the chancellor determines that the conditions in par. (1) are not present or that a suspension without pay is otherwise not warranted, the provisions of s. UWS 11.08 shall apply.

**UWS 11.106 Board Review.** A member of the academic staff on indefinite appointment who has been dismissed for Serious Criminal Misconduct may appeal this action to the board as provided in s. UWS 11.10

SECTION 6. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

**Notice of Meeting**

August 2, 2006  
10:00 a.m.  
1820 Van Hise Hall  
1220 Linden Drive  
Madison, Wisconsin

**Agenda**

1. Calling of the Roll
2. Approval of the Minutes of the June 8 and 9, 2006 Meetings
3. Request by UW-Whitewater for Authority to Enter into a Land Use Agreement to Allow the UW-Whitewater Foundation to Construct an Athletic Pavilion and to Accept the Completed Facility as a Gift-In-Kind  
[Resolution 1]
4. Discussion Regarding 2007-09 Biennial Budget Request
5. Adjournment

*Persons with disabilities requesting an accommodation to attend are asked to contact Judith Temby in advance of the meeting at (608) 262-2324.*

*The meeting will be webcast at <http://www.uwex.edu/ics/stream/regents/meetings/> Wednesday, August 2, 2006, at 10:00 a.m. until approximately 12:00 p.m.*

Authority to Enter Into a Land Use  
Agreement to Construct an Athletic  
Pavilion and to Accept a Gift-In-Kind,  
UW-Whitewater

PHYSICAL PLANNING AND FUNDING COMMITTEE

Resolution:

That, upon the recommendation of the UW-Whitewater Chancellor and the President of the University of Wisconsin System, authority be granted to enter into a land use agreement with the UW-Whitewater Foundation to allow them to construct an Athletic Pavilion and to accept the completed facility as a gift-in-kind from the foundation.

# THE UNIVERSITY OF WISCONSIN SYSTEM

## Request for Board of Regents Action August 2006

1. Institution: The University of Wisconsin-Whitewater
2. Request: Requests authority to enter into a land use agreement with the UW-Whitewater Foundation to allow them to construct an Athletic Pavilion and to accept the completed facility as a gift-in-kind from the foundation.
3. Description and Scope of Project: This project will enable the UW-Whitewater Foundation to construct a 2,880 ASF/3,200 GSF pre-engineered, single story, Athletic Pavilion facility southwest of and adjacent to the Perkins Stadium and immediately to the northwest of Parking Lot 24 on the campus of the University of Wisconsin-Whitewater. The building will be constructed on a grade level concrete slab. Electrical service for lighting and miscellaneous loads will be provided. The facility will be provided with durable drop down canvas sides to shield from winds when needed.

This facility will provide space for informal social gatherings in association with athletic events. All costs will be borne by the foundation. The university will occupy the facility at the completion of the project. The work will be accomplished under terms of a use permit between the foundation and the Board of Regents. The Division of Facilities will have an opportunity to review plans and oversee construction.

4. Justification of the Request: This project will construct an open bay 3,200 GSF Athletic Pavilion near the Perkins Stadium and the Van Steenderen Softball Complex. The facility will provide a sheltered space to be used primarily as a hospitality location for social gatherings related to athletic events held in the west campus athletic area (football, women's softball, soccer, track, and baseball). This facility will also be available for other group gatherings held outdoors. Minimal services such as electric power for lighting and service outlets will be provided within the building but no heat or water will be provided.
5. Budget: Not applicable.
6. Previous Action: None.



**2007-09 UW System Capital Budget – Briefing Paper**  
**Special Meeting of the Board of Regents**  
**August 2, 2006**

**BACKGROUND**

The 2005-07 Capital Budget represented a solid investment by the State of Wisconsin in UW System facilities. The final budget included approximately \$150,000,000 in General Fund Supported Borrowing (GFSB) for UW Major Projects and \$128,000,000 of GFSB of All Agency funds for maintenance, repair, and renovation. Major Projects are those individually enumerated in the statutes. All Agency funds are enumerated as a lump sum with the individual projects recommended by the UW System and approved by the Board of Regents and state Building Commission. Additionally, the budget included approximately \$170,000,000 Program Revenue Supported Borrowing (PRSB) for Major Projects and \$24,000,000 PRSB for All Agency projects.

During deliberations on the 2005-07 Capital Budget, the Division of State Facilities staff developed and presented to the state Building Commission a six-year plan for Major Projects funded with General Fund Supported Borrowing. The plan recommended enumerations for the 2005-07 biennium and some advance enumerations for the two subsequent biennia. The plan also identified priority projects for advance planning in 2005-07 with enumeration sought in 2007-09. While the Building Commission supported advance planning, they did not guarantee enumeration. The 2007-09 Capital Budget instructions from the Department of Administration included this statement from Secretary Bablitch. *Given continuing budget pressures and the state's policy to limit debt service between 3.5% and 4.0% of statewide General Purpose Revenue (GPR) expenditures it is unlikely that major projects requiring GFSB that were not included in the statewide Six-Year plan reviewed by the Commission will be included in the 2007-09 recommendations.* This instruction serves as the “Maximum Request Guideline” issued by DOA in the last biennium.

The projects included in the DOA plan for the UW System for 2007-09 are:

A. Advance Enumerations		
UW-Madison	Wisconsin Institute for Discovery	\$ 31,000,000
UW-Madison	University Square Redevelopment	\$ 39,850,000
UW-Madison	Sterling Hall Renovation completion	\$ 20,000,000
UW-Milwaukee	Columbia St. Mary’s purchase/develop	\$ 28,265,000
UW-Platteville	Tri-State Initiative (engineering)	<u>\$ 10,000,000</u>
Subtotal:		→ \$129,115,000
B. Advance Planning - Academic Facilities (alpha order)		
UW-La Crosse	One total was specified for all four projects.	\$105,000,000
UW-Oshkosh		
UW-Parkside		
UW-Superior		
C. UW System Utilities		\$ 20,000,000*
D. UW System Classroom Improvements		\$ 10,000,000*
<b>Total of Department of Administration 2007-09 anticipated plan</b>		<b><u>\$264,115,000</u></b>

\*Items C and D were identified for funding, but without specific dollar amounts.

Projects Requested by UW System Institutions for 2007-09

General Fund Supported Borrowing only.

A. Advance Enumerations		
UW-Madison	Wisconsin Institute for Discovery	\$ 31,000,000
UW-Madison	University Square redevelopment	\$ 39,850,000
UW-Madison	Sterling Hall Renovation completion	\$ 20,000,000
UW-Milwaukee	Columbia St. Mary's purchase/develop	\$ 28,265,000
UW-Platteville	Tri-State Initiative (engineering)	<u>\$ 10,000,000</u>
Subtotal:		→ \$129,115,000
B. Projects for Advance Planning:		
	<u>Original Req.</u>	<u>Reduced Plan</u>
UW-La Crosse (alpha order)	\$ 31,100,000	\$27,500,000
UW-Oshkosh	\$ 44,800,000	\$40,000,000
UW-Parkside	\$ 41,000,000	\$32,100,000
UW-Superior	<u>\$ 26,000,000</u>	<u>\$24,143,400</u>
Subtotal:	\$142,900,000	→ \$123,743,400
C. UW System Utilities		
		\$ 19,889,000
D. UW System Classroom Improvements		
		\$ 10,000,000
<u>Not included in DOA 2007-09 planning</u>		
E. 2005-07 Carryover Projects (alpha order, escalated for inflation)		
UW-Green Bay	Rose and Wood Halls	\$6,734,000
UW-Milwaukee	Physics	\$3,969,000
UW-Oshkosh	Elmwood	\$8,484,000
UW-Oshkosh	Facilities Bldg.	\$5,946,000
UW-Stevens Point	Maintenance Bldg.	\$2,122,000
UW-Stevens Point	Military Science	\$1,600,000
UW-Stout	Harvey Hall Theater	<u>\$5,139,000</u>
Subtotal:		→ <u>\$ 33,994,000</u>
Total of UW System Requests:		\$316,741,000
<u>Amount over the anticipated DOA plan for 2007-09:</u>		<u>(\$ 52,626,400)</u>

Note: These following projects were requested by UW System institutions for 2007-09, but not forwarded for consideration at this time and were not included in the DOA long-range plan or prior capital budget.

UW-Madison	Human Ecology	\$22,500,000
UW-Madison	Integrated Dairy Phase III	\$ 2,145,000
UW-Milwaukee	Great Lakes Research Facility	\$ 1,500,000
UW-Oshkosh	Land Acquisition	\$ 6,500,000
UW-Oshkosh	Pearl Avenue Road Relocation	\$ 800,000
UW-Platteville	Ottensman & Karrmann	\$13,500,000
UW-Platteville	Williams Fieldhouse Add.	\$ 450,000
UW-Superior	Athletic Fields	<u>\$ 2,550,000</u>
Total		\$49,945,000

Note: This page covers General Fund Supported Borrowing. See Appendix A for total project costs and fund sources.

**2007-09 CAPITAL BUDGET RECOMMENDATION**

## General Fund Supported Borrowing Only

A. Advance Enumerations			
UW-Madison	Wisconsin Institute for Discovery	\$ 31,000,000	
UW-Madison	University Square Redevelopment	\$ 39,850,000	
UW-Madison	Sterling Hall Renovation completion	\$ 20,000,000	
UW-Milwaukee	Columbia St. Mary's purchase/develop	\$ 28,265,000	
UW-Platteville	Tri-State Initiative (engineering)	<u>\$ 10,000,000</u>	
Subtotal:			→ \$129,115,000
B. UW System Utilities			\$ 19,889,000
C. UW System Classroom Improvements			\$ 6,500,000
D. 2005-07 Carryover Projects (2007-09 Priority Order)			
UW-Stout	Harvey Hall Theater	\$5,139,000	All Agency**
UW-Oshkosh	Elmwood	\$8,484,000	All Agency
UW-Green Bay	Rose and Wood Halls	\$6,734,000	All Agency
UW-Milwaukee	Physics	\$3,969,000	All Agency
UW-Stevens Point	Military Science	\$1,600,000	
UW-Stevens Point	Maintenance Bldg.	\$2,122,000	
UW-Oshkosh	Facilities Bldg.	<u>\$5,946,000</u>	All Agency
Subtotal:			\$ 3,722,000
E. Create a Two-biennia Academic Facility Program***			
2007-09 Enumerate	\$105,000,000	→	\$105,000,000
2009-11 Enumerate	<u>\$109,227,400</u>		
Total	\$214,227,000		
<u>(In Priority Order)</u>			
UW-Superior	Academic Bldg.	\$24,143,400	
UW-La Crosse	Academic Bldg.	\$27,500,000	
UW-Parkside	Comm. Arts	\$32,100,000	
UW-Oshkosh	Academic Bldg.	\$40,000,000	
<u>Additional Academic Facilities (alpha order)</u>			
UW-Eau Claire	Academic Bldg.	\$36,153,000	
UW-Madison	Human Ecology	\$22,500,000	
UW-River Falls	Health/Human Perf.	\$31,831,000	
<u>Total of UW System Requests:</u>			<u><b>\$264,226,000</b></u>

\*\* These five projects would be appropriately funded from the All Agency budget for maintenance, repair, and renovation because they do not construct new space and address significant backlog maintenance.

\*\*\*This provides \$105 M in 2007-09 toward the four projects in planning. The \$18.7 M shortfall would be funded in 2009-11 along with three additional academic buildings at Eau Claire, Madison, and River Falls (\$90.5) for a total of \$109.2 M. The additional three projects were originally included in the Regents full list of projects requested for planning in 2005-07. This funding method would create a more seamless four-year budget for projects allowing them to move forward by accessing the amount of funding needed in the first biennium with complete funding in the following biennium. Another advantage is that these seven projects bring a total of \$47.6 M in matching gifts funds. However, a critical aspect of this alternative is that it would commit \$137.5 M in advance enumerations for 2009-11 including \$28.3 M for UWM – Columbia St. Mary's. This would only accommodate three of the 31 projects requested through 2009-11. The remaining 28 projects requested for 2009-11 exceed \$350 M. In addition, any projects deferred from 2007-09 would carryover as well.

Note: This page covers General Fund Supported Borrowing. See Appendix A for total project costs and fund sources.

## Appendix A

Inst	Project Name	Total Cost	2007-09			2009-11		
			GFSB	Gift/Grants	PRSB	GFSB	Gift/Grants	PRSB
<b>ADVANCE ENUMERATIONS (alpha order)</b>								
MSN	BioStar IV (WID)	\$31,000,000	\$31,000,000					
MSN	University Square	\$39,850,000	\$39,850,000					
MSN	Sterling Hall	\$20,000,000	\$20,000,000					
MIL	Columbia/St. Mary's Hospital - Plan 05-07 Const 09-11	\$112,165,000	\$28,265,000		\$27,800,000	\$28,300,000		\$27,800,000
PLT	Tri-State Initiative	\$10,000,000	\$10,000,000					
<b>Sub-Totals:</b>		\$213,015,000	\$129,115,000	\$0	\$27,800,000	\$28,300,000	\$0	\$27,800,000
<b>2005-07 CARRYOVERS (in 2007-09 Priority Order)</b>								
STO	Harvey Hall Theater	\$5,139,000	\$5,139,000					
OSH	Elmwood Center Remodeling	\$8,484,000	\$8,484,000					
GBY	Rose Hall/Wood Hall Remodeling	\$6,734,000	\$6,734,000					
MIL	Physics Building North Wing Remodeling	\$3,969,000	\$3,969,000					
STP	Military Science	\$1,600,000	\$1,600,000					
STP	Maintenance Building	\$2,122,000	\$2,122,000					
OSH	Facilities Building	\$6,296,000	\$5,946,000		\$350,000			
	<i>All Agency + Lease Total</i>		-\$30,272,000					
<b>Sub-Totals:</b>		\$34,344,000	\$3,722,000	\$0	\$350,000	\$0	\$0	\$0
<b>SYSTEMWIDE PROGRAM PROJECTS</b>								
SYS	Utilities	\$24,704,000	\$19,889,000		\$4,815,000			
SYS	Classroom IT Improvements	\$6,500,000	\$6,500,000					
<b>Sub-Totals:</b>		\$31,204,000	\$26,389,000	\$0	\$4,815,000	\$0	\$0	\$0
<b>TWO BIENNIA ACADEMIC CLASSROOM PROGRAM</b>								
SUP	Academic Building	\$31,143,400	\$24,143,400	\$7,000,000				
LAC	Academic Building	\$33,500,000	27,500,000	6,000,000				
PKS	Comm Arts	\$34,176,000	\$32,100,000	\$2,076,000				
OSH	Academic Building	\$48,000,000	\$40,000,000	\$8,000,000				
	<i>05-07 Academic Building Shortfall</i>		-\$18,743,400			\$18,743,000		
EAU	Academic Building	\$36,153,000				\$36,153,000		
MSN	Human Ecology	\$47,950,000		\$22,500,000		\$22,500,000		\$2,950,000
RVF	Health/Human Performance	\$38,932,000				\$31,831,000	\$2,000,000	\$5,101,000
<b>Sub-Totals:</b>		\$269,854,400	\$105,000,000	\$45,576,000	\$0	\$109,227,000	\$2,000,000	\$8,051,000
<b>Totals</b>		\$548,417,400	\$264,226,000	\$45,576,000	\$32,965,000	\$137,527,000	\$2,000,000	\$35,851,000

<b>Comparison of 2005-07 to 2007-09</b>	Actual	Potential	Recommendation
<b>Approximate Figures</b>	2005-07	2007-09	2007-09
		With UW Requests	
UW Total New GFSB for Major Projects	\$150.0	\$316.0	\$265.0
Non-UW GFSB Majors	\$50.0	\$50.0	\$50.0
Total New state GFSB for All Agency Fund	\$200.0	\$200.0	\$200.0
<b>Total New state GFSB in 2005-07</b>	<b>\$400.0</b>	<b>\$566.0</b>	<b>\$515.0</b>
DOA New GFSB target - state wide	\$460.0	\$430.0	\$430.0
Variance from DOA new GFSB target	-\$60.0	\$136.0	\$85.0

### PRIORITY ORDER

Project	Rank in Group	Funding	Cumulative Total
University Square		\$39.8	\$39.8
Sterling		\$20.0	\$59.8
WI Institute for Discovery		\$31.0	\$90.8
Milwaukee - Columbia		\$28.3	\$119.1
Platteville - Tri State Init.		\$10.0	\$129.1
Utilities		\$20.0	\$149.1
Classrooms		\$6.5	\$155.6
Superior - Academic	1	\$24.1	\$179.7
La Crosse - Academic	2	\$27.5	\$207.2
Parkside - Academic	2	\$32.1	\$239.3
Oshkosh - Academic	4	\$40.0	\$279.3
Stevens Pt. - Military Science	5	\$1.6	\$280.9
Stevens Point - Maintenance	6	\$2.1	\$283.0
Planning Shortfall (2009-11)		-\$18.7	\$264.3
<b>All Agency Funded</b>			
Stout - Harvey Hall Theater	1	\$5.1	\$5.1
Oshkosh - Elmwood	2	\$8.5	\$13.6
Green Bay - Rose Wood Halls	3	\$6.7	\$20.3
Milwaukee - Physics	4	\$4.0	\$24.3
Oshkosh - Facilities Bldg. Reloc.	5	\$6.0	\$30.3

2009-11 Additional Academic Facilities (alpha order)

These projects have not yet been ranked for priority order.

UW-Eau Claire Academic Bldg.	\$36,153,000
UW-Madison Human Ecology	\$22,500,000
UW-River Falls Health & Human Performance	\$31,831,000

## 2007-09 Program Revenue Major Projects

Inst		Project Name	Total Cost	GFSB	Gifts/Grants	PRSB
<b>PROGRAM REVENUE MAJOR PROJECTS</b>						
EXT	2007-09	Lowell Hall Guestroom Remodeling	\$3,600,000			\$3,600,000
LAC	2007-09	Stadium and Fields	\$14,600,000	\$600,000	\$11,500,000	\$2,500,000
MSN	2007-09	Parking Ramps Expansions Lot 36 and Lot 46	\$7,132,000			\$7,132,000
MSN	2007-09	Chadbourne and Barnard Halls Renovation	\$7,823,000			\$7,823,000
MSN	2007-09	Lakeshore Residence Hall Development - Phases I and II	\$67,815,000			\$67,815,000
MSN	2007-09	Music Performance Building	\$43,865,000		\$43,865,000	
MSN	2007-09	South Union/Mem Union Theater Wing Renov/Parking Ramp	TBD			
OSH	2007-09	Softball Stadium	\$500,000		\$500,000	
OSH	2007-09	Residence Hall - Oshkosh	\$34,000,000			\$34,000,000
PKS	2007-09	Union Parking Lot Reconstruction	\$1,173,000			\$1,173,000
RVF	2007-09	Field South Fork Suites Addition	\$14,586,000			\$14,586,000
STP	2007-09	Residence Hall - Stevens Point	\$36,205,000			\$36,205,000
STP	2007-09	Residence Halls Remodeling	\$19,995,000			\$19,995,000
STO	2007-09	University Centers Renovation	TBD			
STO	2007-09	Price Commons Second Floor Renovation	\$2,713,000			\$2,713,000
WTW	2007-09	Drumlin Hall Renovation	\$1,275,000			\$1,275,000
WTW	2007-09	Residence Hall - Whitewater	\$33,300,000			\$33,300,000
WTW	2007-09	Multi Sport Complex - Phase II	\$5,886,000		\$3,436,000	\$2,450,000
<b>Sub-Totals:</b>			\$294,468,000	\$600,000	\$59,301,000	\$234,567,000