

07/03/2020



## **BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM**

### **I. All Regents**

Thursday, July 9, 2020

Via WebEx Videoconference  
Room 1820, Van Hise Hall  
1220 Linden Drive  
Madison, Wisconsin

12:30 p.m.

1. Calling of the Roll
2. Declaration of Conflicts
3. Introduction and Welcome: Interim System President Tommy G. Thompson
4. Approval of the 2020-21 Audit Plan
5. Approval of authority for UW System to construct minor facilities renewal projects
6. Approval of authority for UW System to construct all agency maintenance and repair projects
7. Approval of a UW-Milwaukee sponsored research agreement with Calcigenix, LLC
8. Approval of the UW System and Wisconsin Technical College System agreement for fulfilling 2019 Wisconsin Act 46 requirements
9. Title IX Overview
10. Approval of Notice of Preliminary Hearing on Administrative Code Scope Statement for Chapter UWS 4, 7, 11 and 17 Permanent and Emergency Rules
11. Update on Plans and Approval of Guiding Principles for Returning to UW Campuses for the Fall 2020 Semester
12. Delegation of Authority to Approve Decreases in Segregated Fees in Academic Year 2020-21

### 13. Closed Session

Move into closed session to consider: two student requests for review of UW-Milwaukee decisions, as permitted by s. 19.85(1)(a), (f) and (g), Wis. Stats.; and a UW-Madison salary offer, as permitted by s. 19.85(1)(c), Wis. Stats.

### 14. Adjourn

Meeting room capacity is limited due to social distancing requirements. Access to gallery seating will be granted to 8 individuals on a first-come, first-served basis, starting at 12:15 p.m. Members of the public will be required to check in with staff inside the front entrance on the first floor of Van Hise Hall (entering from Linden Drive) upon arrival.

Webex registration information and meeting materials can be found during the week of the meeting at <https://www.wisconsin.edu/regents/meetingmaterials/> or may be obtained from Jess Lathrop, Executive Director, Office of the Board of Regents, 1860 Van Hise Hall, Madison, WI 53706, (608) 262-2324. Persons with disabilities requesting accommodations are asked to contact Jess Lathrop in advance of the meeting.

**APPROVAL OF FISCAL YEAR 2021 AUDIT PLAN**

**REQUESTED ACTION**

Adoption of Resolution 4.

**Resolution 4.** That, upon the recommendation of the Interim President of the University of Wisconsin System, the Board of Regents approves the Fiscal Year 2021 Audit Plan.

**SUMMARY**

The Board of Regents annually reviews and approves the UW System's internal audit plan, with interim progress reports made to the Audit Committee at least quarterly.

**Presenter**

- Lori Stortz, Chief Audit Executive

**ATTACHMENTS**

- A) UW System Administration Office of Internal Audit Fiscal Year 2021 Audit Plan

**Office of Internal Audit Fiscal Year 2021 Audit Plan**

<b>Continuous Auditing</b>	<b>Risks</b>	<b>Objectives/Procedures</b>
Payroll	<ul style="list-style-type: none"> <li>• Fraud</li> </ul>	<ul style="list-style-type: none"> <li>• Systematic identification of payroll conditions or trends that warrant further review or investigation. Examples may be overload payments, termination payments, rehired annuitants, supplemental pay, lump sum payments, and changes in the payroll function resulting from the COVID-19 pandemic.</li> <li>• Providing results of testing to institution/UW System management to improve compliance and support potential enhancement of policy.</li> </ul>
Purchasing Cards	<ul style="list-style-type: none"> <li>• Fraud</li> <li>• Embezzlement</li> </ul>	<ul style="list-style-type: none"> <li>• Risk-based identification of purchasing card expenditures that may not be allowable, using automated techniques.</li> <li>• Determination and evaluation of whether systematically-identified expenses are allowable.</li> <li>• Providing results of testing to institution/UW System management to improve compliance and support potential enhancement of policy.</li> </ul>
<b>Fiscal Year 2020 Audits in Process</b>	<b>Risks</b>	<b>Objectives/Procedures</b>
Post-Tenure Review	<ul style="list-style-type: none"> <li>• Compliance with Board Policy</li> </ul>	<ul style="list-style-type: none"> <li>• Test compliance with each institution's practices per their policies and procedures related to post-tenure review, with an emphasis on timeliness.</li> </ul>
Oversight of Programs with Minors	<ul style="list-style-type: none"> <li>• Physical Safety and Security</li> </ul>	<ul style="list-style-type: none"> <li>• Review and evaluate whether the institutions have a policy as required by Regent Policy 20-19.</li> <li>• Test compliance with each institutions' policy and practices as they relate to oversight.</li> </ul>

Other Affiliated Organizations	<ul style="list-style-type: none"> <li>• Fraud</li> <li>• Embezzlement</li> <li>• Reputation</li> </ul>	<ul style="list-style-type: none"> <li>• Test compliance with UWSA Policy 362.</li> </ul>
Laboratory Safety	<ul style="list-style-type: none"> <li>• Physical Security and Safety</li> <li>• Legal Compliance</li> </ul>	<ul style="list-style-type: none"> <li>• Evaluate the design and effectiveness of laboratory safety programs at each of the institutions.</li> <li>• Review and evaluate the design and effectiveness of the incident response process.</li> </ul>
<b>Fiscal Year 2021 New Audits</b>	<b>Risks</b>	<b>Objectives/Procedures</b>
Emergency Grant Aid Payments to Students Under the CARES Act	<ul style="list-style-type: none"> <li>• Compliance with Department of Education's Funding Certification and Agreements</li> </ul>	<ul style="list-style-type: none"> <li>• Test compliance with each institution's agreement.</li> </ul>
Information Technology Disaster Recovery	<ul style="list-style-type: none"> <li>• Continuity of Operations</li> <li>• Data Protection</li> </ul>	<ul style="list-style-type: none"> <li>• Evaluate each institution's plan for restoring information technology operations in the event of a disaster.</li> </ul>
Incident Response	<ul style="list-style-type: none"> <li>• Data Availability</li> <li>• Breach of information</li> <li>• Reputation</li> </ul>	<ul style="list-style-type: none"> <li>• Test compliance with UWSA Policy 1033.</li> </ul>
Security Awareness	<ul style="list-style-type: none"> <li>• Data Security</li> <li>• Reputation</li> </ul>	<ul style="list-style-type: none"> <li>• Test compliance with UWSA Policy 1032.</li> </ul>
Foreign Influence	<ul style="list-style-type: none"> <li>• Regulatory Compliance</li> <li>• Reputation</li> </ul>	<ul style="list-style-type: none"> <li>• Test compliance with Section 117 of the Higher Education Act.</li> </ul>
Contracts with Private Entities	<ul style="list-style-type: none"> <li>• Conflicts of Interest</li> <li>• Reputation</li> </ul>	<ul style="list-style-type: none"> <li>• Test compliance with Board of Regents Policy 13-1.</li> <li>• Evaluate System and institutional processes for identification, negotiation and evaluation of contracts covered by the policy.</li> </ul>
NCAA Division III Athletics Financial Transactions	<ul style="list-style-type: none"> <li>• Fraud</li> <li>• Conflicts of Interest</li> <li>• Reputation</li> </ul>	<ul style="list-style-type: none"> <li>• Test and evaluate financial transactions for each of the comprehensive institutions.</li> </ul>
Independent Contractors	<ul style="list-style-type: none"> <li>• Fraud</li> <li>• Regulatory Compliance</li> <li>• Conflicts of Interest</li> </ul>	<ul style="list-style-type: none"> <li>• Test and evaluate independent contractor payments for compliance with UWSA Policy 235.</li> </ul>
Change Requests of Bank and Contact Information	<ul style="list-style-type: none"> <li>• Fraud</li> </ul>	<ul style="list-style-type: none"> <li>• Test and evaluate compliance with UWSA Policy 363.</li> </ul>
Non-Competitive Bids	<ul style="list-style-type: none"> <li>• Fraud</li> <li>• Regulatory Compliance</li> <li>• Conflicts of Interest</li> </ul>	<ul style="list-style-type: none"> <li>• Test and evaluate compliance with UWSA Policy 540 and Wisconsin State Procurement Policy PRO-501.</li> </ul>

NCAA Athletics Division I Consulting Engagements	<ul style="list-style-type: none"> <li>• Data Accuracy</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed upon procedures engagements over financial matters (Green Bay and Milwaukee).</li> </ul>
Internal Assessment	<ul style="list-style-type: none"> <li>• Conformance with Standards and Code of Ethics</li> </ul>	<ul style="list-style-type: none"> <li>• Perform and summarize a self-assessment of the internal audit activity.</li> </ul>
	<b>Advisory Services</b>	
	UW-Shared Services business process design	
	Enterprise risk management implementation	
	<b>Audits / Projects as Requested by Management</b>	
	Fifteen percent of audit time is available for audits and special projects as requested by System or institutional leaders.	
	Past projects have included assistance with fraud investigations, program assessments, compliance with policy assessments and special audits.	

DRAFT

# I. All Regents

July 9, 2020

Item 5.

## AUTHORITY TO CONSTRUCT MINOR FACILITIES RENEWAL PROJECT, UW SYSTEM

### REQUESTED ACTION

Adoption of Resolution 5., authorizing construction of a minor facilities renewal project.

**Resolution 5.** That, upon the recommendation of the President of the UW System, the UW System Board of Regents grants authority to construct a minor facilities renewal project at an estimated total cost of \$6,058,300 General Fund Supported Borrowing.

### SUMMARY

#### MINOR FACILITIES RENEWAL, GROUP 1

INST	PROJ. NO.	PROJECT TITLE	GFSB	PRSB	CASH	GIFT/GRANT	TOTAL
GBY	19G1Z	MAC Hall/Wood Hall Ext Envelope Repairs	\$6,058,300	\$0	\$0	\$0	\$6,058,300
<b>MFR SUBTOTALS</b>			<b>\$6,058,300</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$6,058,300</b>

	GFSB	PRSB	CASH	GIFT/GRANT	TOTAL
<b>MONTHLY TOTALS</b>	<b>\$6,058,300</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$6,058,300</b>

### Presenter

- Alex Roe, Senior Associate Vice President for Capital Planning and Budget

### BACKGROUND

#### UW-Green Bay - Mary Ann Cofrin Hall/Wood Hall Exterior Envelope Repair:

This project repairs the exterior envelopes of Mary Ann Cofrin Hall and Wood Hall to improve their thermal performance, maintain their integrity, resolve moisture infiltration, and prevent damage to the interior of the buildings and their contents. Project work on Mary Ann Cofrin Hall includes removing the ornamental steel frame at the north elevation; repairing brick and limestone masonry and mortar; removing and replacing failed wall sealants; replacing window glazing gaskets and thru-wall flashings, standing seam metal and EPDM roofing systems (including repairs at skylights and sloped glazing areas), and below-grade water proofing system; correction of site grading and drainage issues; repainting of rusting steel lintels; improving deficient areas of thermal and air barriers at

roof to wall transitions; and installing new gutters and snow retention systems.

Project work on Wood Hall includes removing all Exterior Insulating Finish System (EIFS) wall systems and replacing with a new insulated metal wall panel system; rehabilitating the aluminum glazing systems; repairing the cracked and spalled structural cast-in-place concrete; and installing new snow guards and a new roof over the building entry.

The Mary Ann Cofrin Hall roof system was constructed with the building in 2000 and consists of standing seam metal roofing over 2 inches of rigid foam insulation, over 1 inch of foil faced rigid insulation, and over 1-½ inches of metal deck. It is assumed that this system has an insulation value of R-15. The cavity wall includes 4-inch face brick, 2-inch cavity, and 1-inch of rigid foam over 8-inch concrete masonry units. Evidence of moisture can be seen on the exterior brick which is severely discolored and has required periodic cleaning to remove mold and mildew stains. This project will continue exterior envelope repairs designed and completed under a previous project. This portion of the project was developed as the result of a study, which included on-site investigation and research, scope of work recommendations, and an estimated budget.

The Wood Hall Exterior Insulated Finish System (EIFS) is failing as evidenced by the pronounced cracks and increasing discoloration in the exterior surface finish material. Birds have pecked holes into the surface of the EIFS system and have begun nesting within the finish material cavity. If this deterioration is continued, the insulation will become water saturated, rendering it ineffective as an insulating material. Due to water penetration into the wall cavity, the structural integrity of the wall system is compromised and has begun to deteriorate. It is evident that repair of the EIFS materials is not a viable alternative and that full replacement is warranted. The EIFS applied in 1988 to replace the original Cor-Ten steel panel system is failing, taking on moisture, cracking, and discoloring. This jeopardizes the substructure.

### **Previous Action**

None.

### **Related Policies**

- Regent Policy Document 19-8, "[Funding of University Facilities Capital Costs](#)"
- Regent Policy Document 19-15, "[Physical Development Principles](#)"
- Regent Policy Document 19-16, "[Building Program Planning and Approval](#)"



Thursday, July 9, 2020

## AUTHORITY TO CONSTRUCT ALL AGENCY MAINTENANCE AND REPAIR PROJECTS, UW SYSTEM

### REQUESTED ACTION

Adoption of Resolution 6., authorizing construction of various maintenance and repair projects.

**Resolution 6.** That, upon the recommendation of the Interim President of the UW System, the UW System Board of Regents grants authority to construct various maintenance and repair projects at an estimated total cost of \$6,686,600 (\$3,945,800 General Fund Supported Borrowing; \$2,740,800 Program Revenue Supported Borrowing).

### SUMMARY

#### UTILITY REPAIR AND RENOVATION

INST	PROJ. NO.	PROJECT TITLE	GFSB	PRSB	CASH	GIFT/GRANT	TOTAL
MSN	18A1Z	Primate Center Chilled Water Extension	\$1,576,800	\$554,000			\$2,130,800
RVF	18H2I	Campus Fiber Optic Backbone Repl	\$2,369,000	\$2,186,800			\$4,555,800
<b>URR SUBTOTALS</b>			<b>\$3,945,800</b>	<b>\$2,740,800</b>		<b>\$0</b>	<b>\$6,686,600</b>

	GFSB	PRSB	CASH	GIFT/GRANT	TOTAL
<b>JULY 2020 TOTALS</b>	<b>\$3,945,800</b>	<b>\$2,740,800</b>		<b>\$0</b>	<b>\$6,686,600</b>

### Presenter

- Alex Roe, Senior Associate Vice President for Capital Planning and Budget

### BACKGROUND

#### UW-Madison - Primate Center Chilled Water Extension:

This project extends the campus central chilled water utilities to serve the Wisconsin Primate Center and the Harlow Primate Lab and removes the standalone building chilled

water equipment in the Wisconsin Primate Center. Project work includes extension of the 8-inch underground chilled water supply and return piping from 14-inch lines near the northwest corner of North Charter Street and Capitol Court. The 8-inch piping will be extended west on Capitol Court to serve the Wisconsin Primate Center and the Harlow Primate Lab. Six-inch diameter piping laterals will be extended into the Harlow Primate Lab with new valves and capped for future extension. The 8-inch diameter piping will be extended into the Wisconsin Primate Center.

Upon completion of the installation of the underground chilled water piping, all areas disturbed by the project will be fully restored including roadways, curbs, gutters, terrace areas, trees, sidewalks, landscaping features, and site structures.

Work within the Wisconsin Primate Center includes removal of the existing chiller, cooling tower, associated pumps, auxiliary equipment, and the electrical connections for the equipment being removed. Two new campus chilled water pumps, associated piping, and a valve bypass will be installed along with two new plate and frame heat exchangers. Two new building glycol/chilled water pumps and associated piping will be installed on the building side of the heat exchangers and connected to the existing building chilled water piping system. New work will also include associated piping specialties, controls and associated electrical connections.

The Primate Center is cooled by a 344-ton, R11 chiller that is at the end of its useful life. The unit only made it through the past cooling season with nearly daily intervention by campus maintenance staff. The Primate Center is an animal holding research facility in which air conditioning is critical to the health and wellbeing of the primates. Connecting the building to campus chilled water utilizes the most efficient and reliable source of cooling currently available on campus. The Harlow Primate Lab, although not in the same dire condition as the Primate Center, is located between the Primate Center and the connection point of the new chilled water line. The installation of two tees and the short pipe to feed the building would be most economical. There are two main chillers serving the Primate Lab; they are dated and do not provide the energy efficiency produced by the campus system. Beginning the process of connecting this facility to the campus cooling system moves the university closer to its energy efficiency goals.

### **UW-River Falls - Campus Fiber Optic Backbone Replacement:**

The project installs new single-mode fiber optic cable through existing underground ductbanks between the main campus nodes at the Agricultural Science Building and Rodli Hall to buildings located throughout the rest of the main campus. Project work includes installing new non-redundant links to the Intramural Fields, Amphitheater, and the Farm Pavilion. The link to the Farm Pavilion will be a new underground route. The new Agricultural Science Building node will be constructed and include pathways, power, lighting, HVAC, and security to support the new cabling. In-building cabling to the new node

will replace existing cabling that is now routed to the old building node. Existing communications pathways and equipment room utilities will be improved at various buildings to accommodate the new cable system. New single-mode fiber optic interface modules will be installed for the energy management/building automation and fire alarm/smoke detection systems. New network electronics and/or single-mode fiber optic interface modules will be deployed by the university. Both items are to facilitate the transition to the new cable system. Abandoned and outdated fiber optic, multiple-pair copper, coaxial, and other cable types will be removed prior to and following new cable installation to free ductbank capacity.

The fiber optic-based telecommunications backbone system has been serving the campus for more than 20 years. The system is composed of both multi-mode and single-mode fiber with a design bandwidth of 100 megabits per second (Mbps). The system capacity has been stretched to 1 gigabit per second (Gbps), well beyond its designed bandwidth. Most of the cable has aged and decayed. Individual fibers are cracked and no longer used. The campus projects bandwidth demand will be in the 10 Gbps range in the near future, and the fiber plant and termination equipment must be replaced to meet that need. The building automation system and fire alarm system currently use multi-mode cabling, which is difficult to maintain. The campus seeks to use only single-mode fiber in the future. The campus has only one star-configured fiber backbone system. Failures at the building entrance leave certain buildings without data service until the backbone system can be repaired. To increase reliability, a secondary/backup system should be constructed that uses different physical routes between buildings where practical, and in different conduits within the same ductbank where alternate routes are not feasible.

The electromechanical program clock system is well past its useful life. Spare parts are difficult to obtain, and most clocks do not show the time accurately. The clock system uses a copper control cable located in the underground ductbank conduit system that will be removed to make room for the fiber backbone cabling.

### **Previous Action**

None.

### **Related Policies**

- Regent Policy Document 19-8, "[Funding of University Facilities Capital Costs](#)"
- Regent Policy Document 19-15, "[Physical Development Principles](#)"
- Regent Policy Document 19-16, "[Building Program Planning and Approval](#)"

**UW-MILWAUKEE SPONSORED RESEARCH AGREEMENT  
WITH CALCIGENIX LLC**

**REQUESTED ACTION**

Adoption of Resolution 7., approving the contractual agreement between the Board of Regents and CalciGenix, LLC:

**Resolution 7.** That, upon recommendation of the Chancellor of the University of Wisconsin-Milwaukee and the President of the University of Wisconsin System, the Board of Regents approves the contractual sponsored research agreement between the Board of Regents of the University of Wisconsin System, doing business as UW-Milwaukee, and CalciGenix, LLC for the term of July 1, 2020 through June 30, 2023.

**SUMMARY**

The College of Letters and Science and the Office of Sponsored Programs at UW-Milwaukee has negotiated a three-year Sponsored Research Agreement with CalciGenix, LLC.

Under this agreement, UW-Milwaukee is evaluating a novel therapy involving administration of the calcium binding protein apoaequorin and its ability to protect neurons in the brain and ameliorate aging-related cognitive decline. It is anticipated that the results of this project will impact stroke treatments as well as aging-related neurodegenerative disorders. The services will be provided over a three-year period ending June 30, 2023. Revenues to UW-Milwaukee associated with such services are \$540,000.

The pilot work for this project was funded through a \$150,000 Agreement in 2013. UW-Milwaukee then entered into a three-year agreement for a similar scope of work as described above in the amount of \$504,000. UW-Milwaukee received Regents' approval for the \$504,000 contract as, at the time, Board policy required approval for contracts with a private entity in excess of \$500,000. This Agreement ended on June 30, 2017. At its July 6-7, 2017 meeting, the Regents approved a short-term agreement with CaliGenix through October 6, 2017 and totaling \$30,000, pending review of the longer-term three-year Agreement. At its October 5-6, 2017 meeting, the Regents approved the three-year Agreement for an additional \$491,595. As such, total anticipated cumulative funds from

CalciGenix to UW-Milwaukee on these related projects from 2013 through 2023 are \$1,715,595.

Ownership of any intellectual property created or developed under this agreement is governed by applicable US patent law and UW-Milwaukee retains the right to use and/or publish the results of the research. The work is being overseen by Dr. James Moyer in the College of Letters and Science.

### **Presenter(s)**

- Kate Mollen, Interim Director, Office of Sponsored Programs, UW-Milwaukee

### **BACKGROUND**

Regent Policy Document 13-1 requires any grant or contract with private profit-making organizations in excess of \$1,000,000 be presented to the Board of Regents for formal approval prior to execution.

### **Related Policies**

- Regent Policy Document 13-1, "General Contract Signature Authority, Approval, and Reporting"

**UW SYSTEM AND WISCONSIN TECHNICAL COLLEGE SYSTEM  
AGREEMENT FOR FULFILLING 2019 WISCONSIN ACT 46  
REQUIREMENTS**

**REQUESTED ACTION**

Adoption of Resolution 8., authorizing the approval of the agreement between the UW System and the Wisconsin Technical College System

**Resolution 8.** That, upon the recommendation of the Interim UW System President, the UW System Board of Regents approves the Agreement and Joint Statement on Inter-System Transfer between the Wisconsin Technical College System and the University of Wisconsin System in response to the provisions of 2019 Wisconsin Act 46 and s. 36.31, Wis. Stats.

**SUMMARY**

This agreement outlines areas where the two university systems will focus their work related to transfer to ensure the successful transfer of students across systems and to fulfill the statutory requirements articulated in Wis. Stats. 36.31 for the creation of articulation agreements and the expansion of the Universal Course Transfer Agreement. This inter-system cooperation seeks to optimize the portability of credits and credentials across our systems by: (a) revising and increasing the minimum number of core general education courses required to be transferrable between the two systems from 30 credits up to 72 credits under the Universal Course Transfer Agreement (UCTA); and (b) promoting and improving Program-to-Program Articulation.

**Presenter(s)**

- Carleen Vande Zande, Associate Vice President, Academic Programs and Faculty Advancement

## BACKGROUND

[Wisconsin Act 46](#), published November 22, 2019, was enacted to amend s. 36.31, Wis. Stats., related to higher education core general education course credit transfers and program-to-program articulation agreements. The statutory requirements went into effect November 21, 2019. The parts of s. 36.31 directly relevant to the proposed UW System Universal Undergraduate Credit Transfer Agreement between the University of Wisconsin System (UW System) and Wisconsin Technical College System (WTCS) (in the following referred to as “the agreement”) are listed below.

*Section 4. 36.31 (2m) (b) of the statutes is amended to read:*

36.31 (2m) (b) Notwithstanding s. 36.09 (3) (a), the Board of Regents and the technical college system board shall, and the governing boards of tribally controlled colleges in this state and the association, on behalf of private colleges, may, enter into and implement an agreement that identifies an array of not less than 72 credits of core general education courses and establishes policies for ensuring that, beginning in the 2022-23 academic year, credits for completing the courses are transferable and would satisfy general education requirements at the receiving institution or college, between and within each institution, and technical college, and each tribally controlled college and private college that elects to participate in the agreement.

Additionally, the Act 46 change in statutes also includes changes to reporting the articulation agreements between the two systems. The specific language is listed below:

*Section 3. 36.31 (2m) (am) of the statutes is created to read:*

36.31 (2m) (am) 1. Notwithstanding s. 36.09 (3) (a), the Board of Regents and the technical college system board shall, and the governing boards of tribally controlled colleges in this state and the association, on behalf of private colleges, may, enter into an agreement to promote and support program-to-program articulation agreements that will apply to programs of study specified in the agreements between institutions of the system, technical colleges, and the tribally controlled colleges and private colleges that elect to participate in the agreement. The agreement shall identify and prioritize program-to-program articulation agreements in fields of study that are in high demand or included under program-to-program articulation agreements between institutions and technical colleges that are entered into before the effective date of this subdivision .... [LRB inserts date]. 2. No later than April 1, 2021, the Board of Regents and the technical college system board shall jointly submit a report on progress in complying with sub d. 1. to

the joint committee on finance and the appropriate standing committees of the legislature under s. 13.172 (3).

### **Steps Towards Compliance with s. 36.31, Wis. Stats.,**

In 2018, the UW System Administration (UWSA) Vice President of Academic and Student Affairs directed Associate Vice President (AVP) for Academic Programs and Faculty Advancement, Carleen Vande Zande, to review current transfer policy and to update the policy. From Summer 2018, stakeholders across the UW System and WTCS formed a steering committee to identify any issues related to transfer and to identify how to meet the new requirements found in Act 46. In July 2019 and in October 2019 representatives from both the UW System and the WTCS met to discuss transfer, transfer policy, and upcoming legislation pertaining to transfer to determine priorities for this work.

At the same time, through the adoption of the Transferology system process, additional UW System staff collaborated with WTCS staff to conduct a review of UW System and WTCS course equivalency data and to implement the new information system. Collaborative efforts between the Office of Student Success and the Office of Policy Analysis and Research, as well as with administrators and staff from WTCS and UW System Administration, resulted in the establishment of a workgroup to examine course equivalency data available in the current UW System Transfer Information System electronic database at <https://www.transferology.com/state/wisconsin.htm>. This same group implemented a process to transition the course data to the new Transferology program. The Board heard a report on this work in June 2020.

### **Previous Action or Discussion**

Within the UW System, faculty determine the general education requirements and the transfer of courses at their institutions. Systemwide, the number of general education credits required for graduation varies by institution and by degree program or type. Pursuant to Regent Policy Documents 7-1 and 14-6, and UW System Administrative Policies SYS 135 and SYS 110, currently, each UW institution determines whether and how credits earned at each of the 13 other UW institutions or credits earned in transfer from other institutions will apply to that institution's degree or general education credit requirements. Last month, the Board saw a demonstration of the new Transferology system that tracks how courses transfer and maps what course equivalencies are now in place.

UW System and WTCS already articulate a high number of program-to-program transfer agreements. Academic advisors at both systems use these agreements to map academic pathways for students and counsel students who wish to transfer on the courses that will likely transfer into specific programs at either a UW or a WTCS institution. These



articulation transfer agreements are accessible at this site:  
<https://www.wisconsin.edu/transfer/agreements-campus/>.

### **Terms of the Agreement and Expected Impact**

UWSA and individual institutions will work in partnership with the WTCS System Office and its institutions. Together they will develop routines to maintain, review, modify, assess, report progress, and update the agreement. WTCS and UW System will publish online resources available to reflect this agreement to all students. Procedures for program and policy assessment will also be developed. The Wisconsin Tribal Colleges and the Wisconsin Association of Independent Colleges and Universities institutions will also be invited to participate in this agreement.

### **Related Policies**

- [Regent Policy Document 7-1, "Transfer and Award of Credit for Extra-Institutional Learning"](#)
- [Regent Policy Document 7-3, "The University of Wisconsin System Freshman Admissions Policy"](#)
- [Regent Policy Document 4-16, "Criteria for Approval of Wisconsin Technical College System Collegiate Transfer Programs"](#)
- [SYS 110, "University of Wisconsin System Board of Regents Criteria for Approval of Wisconsin Technical College System Collegiate Transfer Programs"](#)
- [SYS 135, "University of Wisconsin System Undergraduate Transfer Policy"](#)
- [SYS 140, "UW System Templates for Articulation Agreements between UW System Institutions and WTCS Districts"](#)

### **ATTACHMENTS**

- A) Agreement and Joint Statement on Inter-System Transfer between the Wisconsin Technical College System and the University of Wisconsin System

Joint Statement of Agreement on Inter-System Transfer between the Wisconsin Technical College System and the University of Wisconsin System

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**WHEREAS**, In 2019, under Act 46, The *Wisconsin Technical College System Board* and The *University of Wisconsin Board of Regents* are required by law to enter into agreement to promote and support program-to-program articulation agreements that will apply to programs of study specified in the agreements between institutions of the system and technical colleges.

**WHEREAS**, The *Wisconsin Technical College System Board* and The *University of Wisconsin Board of Regents* recognize that both our workforce and the well-being of our state's citizens can be strengthened by broad access to higher education and the opportunity it affords in the identification and development of personal aspirations.

**WHEREAS**, The *Wisconsin Technical College System Board* and The *University of Wisconsin Board of Regents* have prioritized transfer and our shared responsibility for transfer outcomes across our systems as foundational to the success of students, the workforce, and the state.

**THEREFORE**, Be it resolved that the *Wisconsin Technical College System Board* and the *University of Wisconsin Board of Regents* adopt the **Joint Statement of Agreement on Inter-System Transfer** between the Wisconsin Technical College System and University of Wisconsin System.

**Joint Statement of Agreement on Inter-System Transfer between the Wisconsin Technical College System and the University of Wisconsin System**

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The Wisconsin Technical College System Board and the University of Wisconsin System Board of Regents adopt the following joint statement of agreement as guidance to improve the inter-system transfer of students.

Through differentiated missions, the Wisconsin Technical College System and the University of Wisconsin System are responsible for providing the majority of postsecondary education and training options available to Wisconsin's adult citizens. This joint statement renews the long-standing and ongoing commitment of both systems to facilitating the ability of students to progress up a ladder of secondary and postsecondary options that suit their academic and career needs. This statement also responds to the 2019 Wisconsin Act 46 which requires that the Wisconsin Technical College System Board and the University of Wisconsin Board of Regents enter into an agreement regarding the transfer of credits between and within institutions of the two systems.

**Why:** The Wisconsin Technical College System and the University of Wisconsin System recognize that the strength of Wisconsin's workforce and the well-being of the state's citizens can be strengthened by broad access to higher education and the opportunity it affords in the identification and development of personal aspirations. To this end, the Wisconsin Technical College System and the University of Wisconsin System prioritize transfer and our shared responsibility for transfer outcomes across our systems as foundational to the success of students, the workforce, and the state. Underlying this observation is an understanding that social equity

and responsible stewardship simultaneously demand that the Wisconsin Technical College System and University of Wisconsin System identify and remove barriers to that access within and across institutions.

**How:** To this end, the Wisconsin Technical College System and the University of Wisconsin System propose to evaluate current policy and implement best practices in the development of transfer articulation agreements and transfer policies, identify and strengthen key intersections for student support, and develop data driven methodologies for measuring both student and administrative success in student transfer.

**What:** In 2020-2021, the collective work of the Wisconsin Technical College System and the University of Wisconsin System to promote and support program-to-program articulation agreements and increase Higher Education Attainment in Wisconsin will focus on:

- Cooperation to optimize the portability of credits and credentials across our systems by:
  - (a) revising and increasing the minimum number of core general education courses required to be transferrable between the two systems from 30 credits up to 72 credits under the Universal Course Transfer Agreement (UCTA); and (b) promoting and improving Program-to-Program Articulation.
- Report on the number and type of articulation agreements that exist between the two systems and submit that report to the WI Legislature.
- Articulation of programs to advance portability of credits across and within institutions to assist students to complete degree programs in high demand fields and professional preparation programs, specifically targeting:
  - Healthcare
  - Business
  - Information Technology
  - Engineering
  - Other emerging occupations
- Improving program and career advising using common data and advising tools (TES/Transferology) to inform students about the different educational opportunities available in the state's two postsecondary education systems
- Recognizing student learning wherever and however attained in the transfer process and striving to provide maximum consideration of students' prior learning experiences through extending the principles of accommodation to all students.
- Recognizing educational accomplishments attained in extra-institutional settings including third-party validation of learning outside of traditional classrooms
- Partnering to enable the articulation of clear and equitable policies to support transfer of programs and courses that focuses on quality, applicability, comparability, and consistency and that maximizes individual student pathways.
- Cooperating to share data, increase understanding of the student experience and monitor the success of transfer students as they transfer between institutions to ensure that student learning outcomes and program completion goals are met.

## **OVERVIEW OF TITLE IX REQUIREMENTS**

### **REQUESTED ACTION**

No action is required; this item is for information only.

### **SUMMARY**

Title IX of the Education Amendments of 1972 requires that all educational institutions that receive federal funds of financial assistance prohibit sex discrimination in their education programs and activities (34 C.F.R. Part 106). Over the past eighteen months, the U.S. Department of Education (ED) has engaged in rulemaking to further examine and clarify schools' responsibilities in responding appropriately to reports of sex discrimination, sexual harassment, sexual violence, intimate partner violence, and stalking involving faculty, staff, and students as well as pregnant and parenting students. On May 5, 2020, the Department released a final rule with which all recipient educational institutions are required to comply by August 14, 2020.

This presentation is intended to provide the Board of Regents with a brief history of Title IX as well as the steps that the University of Wisconsin System has taken and those it will need to take to gain compliance.

### **Presenter(s)**

- Quinn Williams, UW System General Counsel
- Katie Ignatowski, UW System Director of Compliance and Integrity
- Sarah Harebo, UW System Title IX and Clery Administrator

### **BACKGROUND**

Title IX of the Education Amendments was enacted in 1972. Up until 2011, enforcement of the law primarily focused on gender equity in athletics programs. In 2011, the U.S. Department of Education under the Obama Administration issued a "Dear Colleague" letter that affirmed the law's reach to sexual violence and require schools to take affirmative steps to respond to complaints of and work to proactively prevent sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. In 2015, the UW System

Board of Regents approved changes to the UWS Administrative Code that were necessary to comply with this new guidance and in 2016 approved updates to policy. In 2017, the U.S. Department of Education under the Trump Administration rescinded the previously issued guidance and released new guidance, followed by the publication of new federal regulations in May 2020. The UW System must again approve modifications to Regent Policy Document 14-2, "Sexual Violence and Sexual Harassment," and to relevant provisions of the UWS Administrative Code in order to gain compliance with these new regulations by August 14, 2020. Failure to gain compliance with these new regulations could result in loss of federal funding to the UW System.

## **Brief Overview of Title IX**

*Equity in Athletics*

*Sexual Harassment and Sexual Violence*

## **Impact of Title IX to the UW System**

*Impact to Employees*

*Impact to Students*

## **UW System Efforts to Gain Compliance**

*Prior UW System Title IX Related Task Force and Working Groups*

*2019 Audit of Sexual Harassment and Sexual Violence*

*Current Working Group on Implementation of Title IX Regulations*

*Timeline for Implementation and Compliance*

## **Previous Action or Discussion**

*Regent Policy Document 14-2, "Sexual Violence and Sexual Harassment"*

In December 1980, the Board of Regents adopted Resolution 2297, which created Regent Policy Document (RPD) 80-8, outlining a process for institutions to report incidents of sexual harassment, as well as establishing the Regent Task Force on the Status of Women. In April and May 1981, the Board of Regents adopted Resolutions 2361 and 2384, which respectively adopted many of the task force recommendations and replaced RPD 80-8 with RPD 81-2. Resolution 3758, adopted in April 1987, updated RPD 81-2, which was

subsequently renumbered as RPD 14-2. The Board of Regents updated RPD 14-2 through the adoption of Resolution 10786 in December 2016.

#### *UWS Chapters 4, 7, 11, and 17*

The Board of Regents previously amended UWS Chapters 4, 7, 11, and 17 of the Wisconsin Administrative Code in April 2015 through Resolutions 10476, 10477, and 10478, all of which addressed the Dear Colleague Letter updates from the U.S. Department of Education.

#### *UW System Task Force on Sexual Violence and Harassment*

In July 2014, the Present of the UW System ordered the Task Force on Sexual Violence and Harassment to lead and coordinate systemwide efforts to strengthen UW System's capacity to prevent sexual violence and harassment. This Task Force reported to the Board of Regents in December 2016 to provide a variety of findings and recommendations on how to reform Board of Regents and UW System policies.

#### *UW System Policy*

In June 2018, the Board of Regents adopted Resolution 11038, which called for the UW System to create policies to provide personnel records for former or current UW System employees, document allegations and investigations of employee sexual harassment, and form appropriate reference check procedures for prospective UW System employees. This resulted in the revision of UW System Administrative Policy 1261 and UW System Administrative Policy 1275 in January 2019.

#### **Related Policies**

- [Regent Policy Document 14-2, "Sexual Violence and Sexual Harassment"](#)
- [Chapter UWS 4, Wis. Admin. Code: "Procedures for Dismissal"](#)
- [Chapter UWS 7, Wis. Admin. Code: "Dismissal of Faculty in Special Cases"](#)
- [Chapter UWS 11, Wis. Admin. Code: "Dismissal of Academic Staff for Cause"](#)
- [Chapter UWS 17, Wis. Admin. Code: "Student Nonacademic Disciplinary Procedures"](#)
- [UW System Administrative Policy 1261, "Personnel Files"](#)
- [UW System Administrative Policy 1275, "Recruitment Policies"](#)

Thursday, July 9, 2020

**APPROVAL OF NOTICE OF PRELIMINARY HEARING ON  
ADMINISTRATIVE CODE SCOPE STATEMENTS FOR  
CHAPTERS UWS 4, 7, 11, AND 17**

**REQUESTED ACTION**

Adoption of Resolution 10.

**Resolution 10.** That, upon the recommendation of the Interim President of the University of Wisconsin System, the UW System Board of Regents approves a Notice of Preliminary Public Hearing on the scope statements for the revision of Chapters UWS 4, 7, 11, and 17 of the Wisconsin Administrative Code.

**SUMMARY**

See Item 9. for further information about Title IX and the upcoming regulations effective August 14, 2020. As part of complying with the new Title IX regulations, the University of Wisconsin System Administration has deemed it necessary to seek rule changes to Chapters UWS 4, 7, 11, and 17 of the Wisconsin Administrative Code so that the chapters comply with the substantive and procedural requirements provided under the regulations. As part of the rulemaking process, the UW System will hold a preliminary public hearing regarding the scope statements for these proposed rule changes. Approval of the hearing notice is required by s. 227.136 of the Wisconsin Statutes.

**Presenter(s)**

- Quinn Williams, UW System General Counsel
- Katie Ignatowski, UW System Director of Compliance and Integrity
- Sarah Harebo, UW System Title IX and Clery Administrator

**BACKGROUND**

The University of Wisconsin System (UW System) seeks to modify the University of Wisconsin Board of Regents (Board) administrative rules, Chapters UWS 4, 7, 11, and 17. All

UW System institutions would be affected by the proposed rule revisions articulated in the related scope statement.

The Board has statutory authority for Chapters UWS 4, 7, 11, and 17 under s. 36.09(1) of the Wisconsin Statutes, which reads as follows: "The primary responsibility for governance of the system shall be vested in the board which shall enact policies and promulgate rules for governing the system."

### **Previous Action or Discussion**

#### *Regent Policy Document 14-2, "Sexual Violence and Sexual Harassment"*

In December 1980, the Board of Regents adopted Resolution 2297, which created Regent Policy Document (RPD) 80-8, outlining a process for institutions to report incidents of sexual harassment, as well as establishing the Regent Task Force on the Status of Women. In April and May 1981, the Board of Regents adopted Resolutions 2361 and 2384, which respectively adopted many of the task force recommendations and replaced RPD 80-8 with RPD 81-2. Resolution 3758, adopted in April 1987, updated RPD 81-2, which was subsequently renumbered as RPD 14-2. The Board of Regents updated RPD 14-2 through the adoption of Resolution 10786 in December 2016.

#### *UWS Chapters 4, 7, 11, and 17*

The Board of Regents previously amended UWS Chapters 4, 7, 11, and 17 of the Wisconsin Administrative Code in April 2015 through Resolutions 10476, 10477, and 10478, all of which addressed the Dear Colleague Letter updates from the U.S. Department of Education.

#### *UW System Task Force on Sexual Violence and Harassment*

In July 2014, the President of the UW System ordered the Task Force on Sexual Violence and Harassment to lead and coordinate systemwide efforts to strengthen UW System's capacity to prevent sexual violence and harassment. This Task Force reported to the Board of Regents in December 2016 to provide a variety of findings and recommendations on how to reform Board of Regents and UW System policies.

#### *UW System Policy*

In June 2018, the Board of Regents adopted Resolution 11038, which called for the UW System to create policies to provide personnel records for former or current UW System employees, document allegations and investigations of employee sexual harassment, and form appropriate reference check procedures for prospective UW System employees. This



resulted in the revision of UW System Administrative Policy 1261 and UW System Administrative Policy 1275 in January 2019.

### **Related Policies**

- [Regent Policy Document 14-2, "Sexual Violence and Sexual Harassment"](#)
- [Chapter UWS 4, Wis. Admin. Code: "Procedures for Dismissal"](#)
- [Chapter UWS 7, Wis. Admin. Code: "Dismissal of Faculty in Special Cases"](#)
- [Chapter UWS 11, Wis. Admin. Code: "Dismissal of Academic Staff for Cause"](#)
- [Chapter UWS 17, Wis. Admin. Code: "Student Nonacademic Disciplinary Procedures"](#)
- [UW System Administrative Policy 1261, "Personnel Files"](#)
- [UW System Administrative Policy 1275, "Recruitment Policies"](#)

### **ATTACHMENTS**

- A) Scope Statements
- B) Notice of Preliminary Hearing on the Scope Statements
- C) Governor Evers' Approval of Scope Statements

# STATEMENT OF SCOPE

## The Board of Regents of the University of Wisconsin System

**Rule No.:** Chapter UWS 4

**Relating to:** Procedures for Dismissal of Faculty

**Rule Type:** Both Permanent and Emergency

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

On May 6, 2020, the Federal Government released new, comprehensive Title IX regulations addressing sexual harassment and sexual violence with respect to university employees, including faculty. The regulations go into effect on August 14, 2020. An emergency rule is required for the University of Wisconsin System to be compliant with these new federal regulations by August 14, 2020, to ensure the safety and welfare of the University’s employees.

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

The Board of Regents of the University of Wisconsin System (“Board”) seeks to modify Chapter UWS 4, regarding Procedures for Dismissal of Faculty, to comply with new Title IX regulations that the U.S. Department of Education has published relating to the manner in which higher education institutions address and respond to sexual harassment and sexual violence misconduct allegations involving employees. Specifically, the Board seeks to amend Chapter UWS 4 to modify and add certain sections to ensure the process under which such allegations would be addressed by University of Wisconsin System institutions is compliant with the new federal Title IX regulations. This will involve issuing an emergency rule followed by the promulgation of a permanent rule.

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

The current version of Chapter UWS 4 provides a disciplinary process for pursuing dismissal of faculty for just cause. This process has been fair and effective since it was first published in 1975. The Chapter previously has been amended through the administrative rule-making process to update the Chapter on several occasions.

The modifications contemplated by this rulemaking would incorporate into law necessary changes to conform Chapter UWS 4 to the new federal Title IX regulations. Institutions could adopt policies consistent with the revised Chapter.

An alternative would be to continue to operate with both the current Chapter UWS 4 and the new federal Title IX regulations. This, however, would seem to be in conflict with the language in the federal rules preempting conflicting state laws and regulations. It could lead to confusion and exposure to federal enforcement action and third-party litigation.

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

Wis. Stat. § 36.09(1)(a): “The primary responsibility for governance of the system shall be vested in the board which shall enact policies and promulgate rules for governing the system, plan for the future needs of the state for university education, ensure the diversity of quality undergraduate programs while preserving the strength of the state's graduate training and research centers and promote the widest degree of institutional autonomy within the controlling limits of system-wide policies and priorities established by the board.”

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

40 hours.

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

All University of Wisconsin System institutions and the faculty thereof.

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

Title IX of the Education Amendments of 1972 provides that “[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Currently, there are no federal regulations interpreting this law with respect to addressing allegations of employee sexual misconduct. However, the U.S. Department of Education has issued new federal regulations effective August 14, 2020, with respect to how institutions of higher education that receive federal funding must address allegations of sexual misconduct. The U.S. Department of Education through its Office for Civil Rights enforces these regulations.

The new federal Title IX regulations found at 34 CFR Part 106 mandate substantive and procedural requirements for a university’s investigation and adjudication of formal complaints of sexual harassment or sexual violence against employees, including faculty. The new regulations are intended to effectuate Title IX’s prohibition against sex discrimination. The regulations obligate universities to respond promptly and supportively to persons alleged to have been victimized by sexual harassment or sexual violence, to resolve allegations of faculty sexual misconduct promptly and accurately through a predictable and fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual

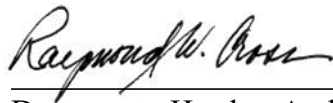
misconduct and effectively implements remedies for victims. Chapter UWS 4 currently complies with many of the new federal requirements. However, certain amendments need to be made to the Chapter to bring it into full compliance.

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

There may be an economic impact on UW institutions, given the University is required by the regulations to provide additional resources to support employees, students, advisors, hearing officers, and additional trainings. The University will continue to offer mental health services and other support and resources to all victims of sexual harassment and assault, regardless of whether they choose to file a formal Title IX complaint.

The University will continue to evaluate any potential economic impacts as it begins drafting rule language and will include more detailed analysis in its EIA. There is no anticipated significant economic impact on small businesses.

**Contact Person:** Sarah Harebo, Title IX and Clery Administrator, 608-262-5739



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Department Head or Authorized Signature

June 18, 2020

Date Submitted

# STATEMENT OF SCOPE

## The Board of Regents of the University of Wisconsin System

**Rule No.:** Chapter UWS 7

**Relating to:** Procedures for Dismissal of Faculty in Special Cases

**Rule Type:** Both Permanent and Emergency

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

On May 6, 2020, the Federal Government released new, comprehensive Title IX regulations addressing sexual harassment and sexual violence with respect to university employees, including faculty. The regulations go into effect on August 14, 2020. An emergency rule is required for the University of Wisconsin System to be compliant with these new federal regulations by August 14, 2020, to ensure the safety and welfare of the University's employees.

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

The Board of Regents of the University of Wisconsin System ("Board") seeks to modify Chapter UWS 7, regarding Procedures for Dismissal of Faculty in Special Cases, to comply with new Title IX regulations that the U.S. Department of Education has published relating to the manner in which higher education institutions address and respond to sexual harassment and sexual violence misconduct allegations involving employees. Specifically, the Board seeks to amend Chapter UWS 7 to modify and add certain sections to ensure the process under which such allegations would be addressed by University of Wisconsin System institutions is compliant with the new federal Title IX regulations. This will involve issuing an emergency rule followed by the promulgation of a permanent rule.

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

The current version of Chapter UWS 7 provides a disciplinary process for pursuing dismissal of faculty for just cause in special cases. This process has been fair and effective since it was first published in 2007. The Chapter previously has been amended through the administrative rule-making process to update the Chapter.

The modifications contemplated by this rulemaking would incorporate into law necessary changes to conform Chapter UWS 7 to the new federal Title IX regulations. Institutions could adopt policies consistent with the revised Chapter.

An alternative would be to continue to operate with both the current Chapter UWS 7 and the new federal Title IX regulations. This, however, would seem to be in conflict with the language in the federal rules preempting conflicting state laws and regulations. It could lead to confusion and exposure to federal enforcement action and third-party litigation.

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

Wis. Stat. § 36.09(1)(a): “The primary responsibility for governance of the system shall be vested in the board which shall enact policies and promulgate rules for governing the system, plan for the future needs of the state for university education, ensure the diversity of quality undergraduate programs while preserving the strength of the state's graduate training and research centers and promote the widest degree of institutional autonomy within the controlling limits of system-wide policies and priorities established by the board.”

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

40 hours.

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

All University of Wisconsin System institutions and the faculty thereof.

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

Title IX of the Education Amendments of 1972 provides that “[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Currently, there are no federal regulations interpreting this law with respect to addressing allegations of employee sexual misconduct. However, the U.S. Department of Education has issued new federal regulations effective August 14, 2020, with respect to how institutions of higher education that receive federal funding must address allegations of sexual misconduct. The U.S. Department of Education through its Office for Civil Rights enforces these regulations.

The new federal Title IX regulations found at 34 CFR Part 106 mandate substantive and procedural requirements for a university’s investigation and adjudication of formal complaints of sexual harassment or sexual violence against employees, including faculty. The new regulations are intended to effectuate Title IX’s prohibition against sex discrimination. The regulations obligate universities to respond promptly and supportively to persons alleged to have been victimized by sexual harassment or sexual violence, to resolve allegations of faculty sexual misconduct promptly and accurately through a predictable and fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual

misconduct and effectively implements remedies for victims. Chapter UWS 7 currently complies with many of the new federal requirements. However, certain amendments need to be made to the Chapter to bring it into full compliance.

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

There may be an economic impact on UW institutions, given the University is required by the regulations to provide additional resources to support employees, students, advisors, hearing officers, and additional trainings. The University will continue to offer mental health services and other support and resources to all victims of sexual harassment and assault, regardless of whether they choose to file a formal Title IX complaint.

The University will continue to evaluate any potential economic impacts as it begins drafting rule language and will include more detailed analysis in its EIA. There is no anticipated significant economic impact on small businesses.

**Contact Person:** Sarah Harebo, Title IX and Clery Administrator, 608-262-5739



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Department Head or Authorized Signature

June 18, 2020

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Date Submitted

# STATEMENT OF SCOPE

## The Board of Regents of the University of Wisconsin System

**Rule No.:** Chapter UWS 11

**Relating to:** Procedures for Dismissal of Academic Staff for Cause

**Rule Type:** Both Permanent and Emergency

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

On May 6, 2020, the Federal Government released new, comprehensive Title IX regulations addressing sexual harassment and sexual violence with respect to university employees, including academic staff. The regulations go into effect on August 14, 2020. An emergency rule is required for the University of Wisconsin System to be compliant with these new federal regulations by August 14, 2020, to ensure the safety and welfare of the University's employees.

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

The Board of Regents of the University of Wisconsin System ("Board") seeks to modify Chapter UWS 11, regarding Procedures for Dismissal of Academic Staff for Cause, to comply with new Title IX regulations that the U.S. Department of Education has published relating to the manner in which higher education institutions address and respond to sexual harassment and sexual violence misconduct allegations involving employees. Specifically, the Board seeks to amend Chapter UWS 11 to modify and add certain sections to ensure the process under which such allegations would be addressed by University of Wisconsin System institutions is compliant with the new federal Title IX regulations. This will involve issuing an emergency rule followed by the promulgation of a permanent rule.

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

The current version of Chapter UWS 11 provides a disciplinary process for pursuing dismissal of academic staff for just cause, including cases of serious criminal misconduct, such as sexual assault. This process has been fair and effective since it was first published in 1975. The Chapter previously has been amended through the administrative rule-making process to update the Chapter.

The modifications contemplated by this rulemaking would incorporate into law necessary changes to conform Chapter UWS 11 to the new federal Title IX regulations. Institutions could adopt policies consistent with the revised Chapter.



An alternative would be to continue to operate with both the current Chapter UWS 11 and the new federal Title IX regulations. This, however, would seem to be in conflict with the language in the federal rules preempting conflicting state laws and regulations. It could lead to confusion and exposure to federal enforcement action and third-party litigation.

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

Wis. Stat. § 36.15(3): “A person having an academic staff appointment for a term may be dismissed prior to the end of the appointment term only for just cause and only after due notice and hearing. A person having an academic staff appointment for an indefinite term who has attained permanent status may be dismissed only for just cause and only after due notice and hearing. In such matters the action and decision of the board, or the appropriate official authorized by the board, shall be final, subject to judicial review under ch. [227](#). The board shall develop procedures for notice and hearing which shall be promulgated as rules under ch. [227](#).”

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

60 hours.

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

All University of Wisconsin System institutions and the faculty thereof.

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

Title IX of the Education Amendments of 1972 provides that “[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Currently, there are no federal regulations interpreting this law with respect to addressing allegations of employee sexual misconduct. However, the U.S. Department of Education has issued new federal regulations effective August 14, 2020, with respect to how institutions of higher education that receive federal funding must address allegations of sexual misconduct. The U.S. Department of Education through its Office for Civil Rights enforces these regulations.

The new federal Title IX regulations found at 34 CFR Part 106 mandate substantive and procedural requirements for a university’s investigation and adjudication of formal complaints of sexual harassment or sexual violence against employees, including academic staff. The new regulations are intended to effectuate Title IX’s prohibition against sex discrimination. The regulations obligate universities to respond promptly and supportively to persons alleged to have been victimized by sexual harassment or sexual violence, to resolve allegations of academic

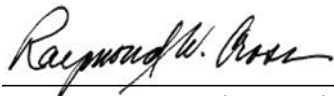
sexual misconduct promptly and accurately through a predictable and fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual misconduct and effectively implements remedies for victims. Chapter UWS 11 currently complies with many of the new federal requirements. However, certain amendments need to be made to the Chapter to bring it into full compliance.

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

There may be an economic impact on UW institutions, given the University is required by the regulations to provide additional resources to support employees, students, advisors, hearing officers, and additional trainings. The University will continue to offer mental health services and other support and resources to all victims of sexual harassment and assault, regardless of whether they choose to file a formal Title IX complaint.

The University will continue to evaluate any potential economic impacts as it begins drafting rule language and will include more detailed analysis in its EIA. There is no anticipated significant economic impact on small businesses.

**Contact Person:** Sarah Harebo, Title IX and Clery Administrator, 608-262-5739



\_\_\_\_\_  
Department Head or Authorized Signature

June 18, 2020

\_\_\_\_\_  
Date Submitted

# STATEMENT OF SCOPE

## The Board of Regents of the University of Wisconsin System

**Rule No.:** Chapter UWS 17

**Relating to:** Nonacademic Student Misconduct

**Rule Type:** Both Permanent and Emergency

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

On May 6, 2020, the Federal Government released new, comprehensive Title IX regulations addressing sexual harassment and sexual violence with respect to university students. The regulations go into effect on August 14, 2020. An emergency rule is required for the University of Wisconsin System to be compliant with these new federal regulations by August 14, 2020, to ensure the safety and welfare of the University's students and to avoid jeopardizing access to federal funding, which is critical to supporting the University's students.

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

The Board of Regents of the University of Wisconsin System seeks to modify Chapter UWS 17, regarding Student Nonacademic Misconduct, to comply with new Title IX regulations the U.S. Department of Education has published relating to the manner in which higher education institutions address and respond to sexual harassment and sexual violence misconduct allegations involving students. Specifically, the Board seeks to amend Chapter UWS 17 to modify and add certain sections to ensure the process under which such allegations would be addressed by University of Wisconsin System institutions is compliant with the new federal Title IX regulations and to ensure institutions are able to continue to properly respond to allegations of sexual misconduct in light of these required changes. This will involve issuing an emergency rule followed by the promulgation of a permanent rule.

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

The current version of Chapter UWS 17 provides a student disciplinary process for handling student misconduct allegations, including allegations of sexual misconduct. This process has been fair and effective since it was first published in 1996. In 2009 and 2015, the Chapter was updated and amended through the administrative rule-making process. The Chapter authorizes each institution of the University of Wisconsin System to adopt consistent policies and procedures, and UW institutions have adopted such policies and procedures.

The modifications contemplated by this rulemaking would incorporate into law changes necessary to conform Chapter UWS 17 to the new federal Title IX regulations. Institutions would adopt policies consistent with the revised Chapter.

The new federal regulations are contained in 34 CFR Part 106. 34 CFR Part 106.30 requires use of certain definitions, including Title IX-specific definitions for sexual harassment, stalking, sexual assault, and other Title IX-covered violations. However, the federal regulations also permit UW institutions to continue to address sexual violence and harassment that fall outside of Title IX's scope and related definitions, allowing institutions to continue to address a broader scope of conduct under their own policies. Thus, the University of Wisconsin System will consider modifying or adding definitions of sexual misconduct to Chapter UWS 17.09 to ensure institutions are able to appropriately address all sexual misconduct allegations, including those outside the scope of Title IX.

Requirements in the federal regulations (34 CFR Part 106.45) relate to the grievance process for formal complaints, including investigations, informal resolution options, live hearings, and appeals. Among other things, these requirements include:

- providing, upon request, an advisor to complainants and respondents to conduct cross-examination
- providing specific notice of allegations to respondents
- application of a relevance standard by the hearing body

These revisions will likely result in revisions to Chapter UWS 17.12. The basis for appeal in 34 CFR 106.45(b)(8) likely will require revisions to Chapter UWS 17.13.

An alternative to modifying Chapter 17 would be to continue to operate with both the current Chapter UWS 17 and the new federal Title IX regulations. However, this would seem to be in conflict with the language in the federal rules (see 34 CFR 106.45(h)) preempting conflicting state laws and regulations. It could lead to confusion and exposure to federal enforcement action and third-party litigation, as well as complicated and confusing procedures for students.

More specifically, failure to comply with Title IX may result in cutoff of federal funds to a higher education institution. Additionally, a higher education institution that fails to have Title IX policies and procedures that are compliant with the regulations and available to complainants and respondents likely will be considered to have been deliberately indifferent to its Title IX obligations and therefore exposed to liability through private-party lawsuits filed by respondent and complainant students.

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

Wisconsin Statutes, Section 36.35 states, "The board shall promulgate rules under ch.227 governing student conduct and the procedures for the administration of violations." These rules will govern student conduct related to sexual harassment and sexual violence and set forth the procedures for addressing violations.

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

100 hours.

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

All University of Wisconsin System institutions and the students thereof.

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

Title IX of the Education Amendments of 1972 provides that “[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Currently, there are no federal regulations interpreting this law with respect to addressing allegations of student sexual misconduct. However, the U.S. Department of Education has issued new federal regulations effective August 14, 2020, with respect to how institutions of higher education that receive federal funding must address allegations of sexual misconduct. The U.S. Department of Education through its Office for Civil Rights enforces these regulations.

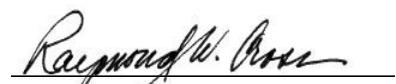
The new federal Title IX regulations found at 34 CFR Part 106 mandate substantive and procedural requirements for a university’s investigation and adjudication of formal complaints of sexual harassment or sexual violence against students. The new regulations are intended to effectuate Title IX’s prohibition against sex discrimination. As stated in the regulations, universities are obligated to respond promptly and supportively to persons alleged to have been victimized by sexual harassment or sexual violence, to resolve allegations of sexual misconduct promptly and accurately through a predictable and fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual misconduct and effectively implements remedies for victims. Chapter UWS 17 currently complies with many of the new federal requirements. However, certain amendments need to be made to the Chapter to bring it into full compliance, including but not limited to changes to investigative procedures, hearing procedures, and appeals.

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

There may be an economic impact on UW institutions, given the University is required by the regulations to provide additional resources to support students, advisors, hearing officers, and additional trainings. The University will continue to offer mental health services and other support and resources to all victims of sexual harassment and assault, regardless of whether they choose to file a formal Title IX complaint.

The University will continue to evaluate any potential economic impacts as it begins drafting rule language and will include more detailed analysis in its EIA. There is no anticipated significant economic impact on small businesses.

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

A handwritten signature in cursive script that reads "Raymond W. Cross". The signature is written in black ink and is positioned above a horizontal line.

Department Head or Authorized Signature

June 18, 2020

Date Submitted

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

July 16, 2020  
12:00 - 1:30 p.m.  
Virtual Meeting hosted on WebEx  
(requires registration)

**Register at:**

<https://wisconsin.webex.com/wisconsin/j.php?MTID=ebbee2db6d802fdf72af887d96fc69f0d>

\*After registering, you will receive an email with instructions on how to join the event.

**Or join by telephone at:**

+1-415-655-0003  
Access code: 132 270 5314

The Board of Regents of the University of Wisconsin System will hold a preliminary public hearing on proposed permanent and emergency scope statements to amend Chapters UWS 4, 7, 11, and 17, Wis. Admin. Code, to bring those Chapters into compliance with the new federal Title IX regulations in 34 CFR Part 106. The new Title IX regulations are effective August 14, 2020.

**Appearances at the Hearing and Submittal of Written Comments**

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

The Board of Regents will accept written comments until **5 p.m. on July 16, 2020.**

Comments may be submitted:

(1) on the web at either:

- <https://www.wisconsin.edu/regents/public-comment-form/>
- Ch. UWS 4: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/083\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/083_20)
- Ch. UWS 7: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/084\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/084_20)
- Ch. UWS 11: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/082\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/082_20)
- Ch. UWS 17: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/081\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/081_20)

(2) by email to [board@uwsa.edu](mailto:board@uwsa.edu);

(3) at the virtual public hearing; or

(4) by mail to:

Office of the Board of Regents  
1860 Van Hise Hall  
1220 Linden Drive  
Madison, Wisconsin 53706

To request a paper copy of the scope statements, contact the Office of Compliance & Integrity by email at [compliance@uwsa.edu](mailto:compliance@uwsa.edu) or phone at 608-800-6746. The scope statements are also available for review at:

- Ch. UWS 4: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/083\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/083_20)
- Ch. UWS 7: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/084\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/084_20)
- Ch. UWS 11: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/082\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/082_20)
- Ch. UWS 17: [https://docs.legis.wisconsin.gov/code/scope\\_statements/all/081\\_20](https://docs.legis.wisconsin.gov/code/scope_statements/all/081_20)

### **Initial Regulatory Flexibility Analysis**

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

### **Accessibility**

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





# Tony Evers

Office of the Governor | State of Wisconsin

June 19, 2020

By Electronic Mail Only

Dear Secretaries and Agency Heads:

On this day, I approved the following statements of scope pursuant to Wis. Stat. § 227.135(2):

- Both an emergency and permanent statement of scope by The Board of Regents of the University of Wisconsin System, submitted June 18, 2020, relating to procedures for dismissal of faculty (Wis. Admin. Code ch. UWS 4); and
- Both an emergency and permanent statement of scope by The Board of Regents of the University of Wisconsin System, submitted June 18, 2020, relating to procedures for dismissal of faculty in special cases (Wis. Admin. Code ch. UWS 7); and
- Both an emergency and permanent statement of scope by The Board of Regents of the University of Wisconsin System, submitted June 18, 2020, relating to procedures for dismissal of academic staff for cause (Wis. Admin. Code ch. UWS 11); and
- Both an emergency and permanent statement of scope by The Board of Regents of the University of Wisconsin System, submitted June 18, 2020, relating to nonacademic student misconduct (Wis. Admin. Code ch. UWS 17).

Please direct any questions about this letter to my policy director, Jenni Dye.

Sincerely,

A handwritten signature in black ink that reads "Tony Evers".

Tony Evers  
Governor

Cc: Ryan Nilsestuen, chief legal counsel ([ryan.nilsestuen1@wisconsin.gov](mailto:ryan.nilsestuen1@wisconsin.gov))  
Jenni Dye, policy director ([jenni.dye@wisconsin.gov](mailto:jenni.dye@wisconsin.gov))  
DOA State Budget Office ([SBOAdminRules@spmail.wi.gov](mailto:SBOAdminRules@spmail.wi.gov))  
Quinn Williams, UWS ([qwilliams@uwsa.edu](mailto:qwilliams@uwsa.edu))

Thursday, July 9, 2020

**UPDATE ON PLANS AND APPROVAL OF GUIDING PRINCIPLES FOR RETURNING TO UW CAMPUSES FOR THE FALL 2020 SEMESTER**

**REQUESTED ACTION**

Adoption of Resolution 11., adopting principles related to the return of students, faculty, staff and visitors to UW campuses.

**Resolution 11.** That, upon the recommendation of the Interim UW System President and the UW Chancellors, the Board of Regents adopts the following principles as students, faculty, staff, and visitors return to the UW campuses for the fall 2020 semester:

1. UW campus leaders shall prioritize the health and safety of students, faculty, staff and surrounding communities in their decision making.
2. UW campuses shall adopt policies or protocols to reduce the spread of the COVID-19 virus, considering public health recommendations made by the U.S. Centers for Disease Control and Prevention (CDC) and state/county health departments, to include the following, at a minimum:
  - a. Face coverings shall be required in all indoor public spaces, including classrooms, and strongly encouraged outside when physical distancing is not possible;
  - b. Physical distancing of at least six feet when feasible in all classrooms, and where possible in labs, specialized learning environments, public spaces and in workspaces;
  - c. Frequent handwashing with soap and water, or the use of hand sanitizer that contains at least 60% alcohol when soap and water are not readily available; and
  - d. Self-monitoring by members of the campus community daily for symptoms of COVID-19, and if symptoms exist, follow the direction provided by campus or public health officials.

## **SUMMARY**

At a June 18, 2020 Special Meeting of the Board of Regents, Vice President Rob Cramer presented the recommendations of the UW System Emergency Operations Center's Plan Ahead Team regarding the proposed re-entry students, employees, and visitors to UW campuses for the fall 2020 semester.

At the Board's July 9, 2020 meeting, Governor Thompson and Vice President Cramer will provide Regents with an update on plans for the fall 2020 semester, including testing and tracing. In addition, Regents will consider a resolution that outlines principles to guide the decision making and implementation strategies employed by campuses this fall.

The CDC issued considerations for higher education institutions in May 2020. These considerations can be found here: [CDC Considerations for Institutions of Higher Education](#).

### **Presenter(s)**

Governor Thompson, UW System President (Interim)  
Rob Cramer, UW System Vice President for Administration

**DELEGATION OF AUTHORITY TO APPROVE DECREASES IN  
SEGREGATED FEES IN ACADEMIC YEAR 2020-21**

**REQUESTED ACTION**

Adoption of Resolution 12., delegating authority to the UW System President to approve decreases in segregated fees for academic year 2020-21 resulting from programmatic changes due to the COVID-19 pandemic.

**Resolution 12.** That, upon the recommendation of the President of the UW System, the Board of Regents delegates authority to the System President to approve decreases in segregated fees for academic year 2020-21 resulting from programmatic changes due to the COVID-19 pandemic, and those changes will be reported to the Business and Finance Committee.

**SUMMARY**

On June 4, 2020 the Board of Regents adopted Resolution 11453 approving the 2020-21 Annual Operating Budget. The operating budget, segregated fees and room and board rates in the budget were prepared using metrics and assumptions for enrollment, revenues and expenditures developed prior to the COVID-19 pandemic. It was anticipated that items in the 2020-21 budget would need to be revisited as more information became known about the effect of COVID-19 on university operations in the fall and spring semesters.

During this time of uncertainty, campuses are carefully considering decisions regarding their segregated fee rates. Approval of changes to the segregated fee rates will need to be made quickly to allow for timely and accurate semester billings.

The Vice President for Finance and appropriate staff will review decrease requests to determine whether to approve the request, and if approved by the System President, will report the changes to the Business and Finance Committee.

Requests to increase segregated fee rates for the 2020-21 academic year will need to be approved by the Board of Regents.

## **Presenter(s)**

- Sean Nelson, Vice President for Finance

## **BACKGROUND**

Per Chapter 36.27(6)(a) Wis. Stats., segregated fees must be used for the purposes for which they are received. They support programs such as student organized activities, sports programming and facilities, transit services, health and counseling, and debt service.

When action was taken on the 2020-21 Annual Operating Budget it was unclear how, or if students would return to campus in the fall. It has now been determined that students will return to campus with new health measures in place that may impact the services segregated fees are assessed for, and potentially increase costs for maintaining safe environments.

## **Previous Action or Discussion**

Resolution 11453, approval of the 2020-21 Annual Operating Budget, adopted June 4, 2020.

## **Related Policies**

- [Chapter 36.09\(h\), Wis. Stats](#)
- [Chapter 36.27\(6\)\(a\), Wis. Stats](#)