

STATEMENT OF SCOPE FOR ADMINISTRATIVE RULES

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

Rule No.: Chapter UWS 4 and Chapter UWS 7

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

Rule Type: Permanent

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

N/A

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

The Board of Regents of the University of Wisconsin System (“Board”) seeks to modify Chapter UWS 4, Procedures for Dismissal of Faculty, and Chapter UWS 7, Dismissal of Faculty in Special Cases, to recognize published guidance from the U.S. Department of Education. In the guidance, the Department of Education has addressed expectations for higher education institutions to respond to sexual misconduct allegations involving school employees, including allegations of sexual assault.

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. The current version of Chapter UWS 7 provides a disciplinary process for pursuing dismissal of faculty in special cases of serious criminal misconduct, including sexual assault.

The U.S. Department of Education has issued guidance related to sexual assaults at higher education institutions and has reaffirmed that Title IX protects students from sexual harassment carried out by school employees. Some of the expectations of the U.S. Department of Education may require modifications to the provisions under the current Chapters 4 and 7 in order for them to be met.

The modifications contemplated by this rulemaking would incorporate into law some of the published expectations of the U.S. Department of Education. In particular, the new provisions would reflect the evidentiary burden of proof and the role of a complainant in the process.

If modifications are not made to Chapter UWS 4 and Chapter UWS 7, UW institutions will continue to adhere to the provisions of Chapter UWS 4 and Chapter UWS 7 and the federal guidance, but only to the extent that a conflict does not arise. Further, following both policy guidance and the law may lead to confusion.

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

Wis. Stat. § 36.13(3): “Rules. The board and its several faculties after consultation with appropriate students shall promulgate rules for tenure and probationary appointments, for the review of faculty performance and for the non-retention and dismissal of faculty members. Such rules shall be promulgated under ch. 227.”

Wis. Stat. § 36.13(5): “Procedural Guarantees. Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person’s contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final, subject to judicial review under ch. 227. The board and its several faculties shall develop procedures for the notice and hearing which shall be promulgated by rule under ch. 227.”

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

50 hours

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

All 13 four-year University of Wisconsin System institutions, all 13 UW Colleges and the University of Wisconsin Extension.

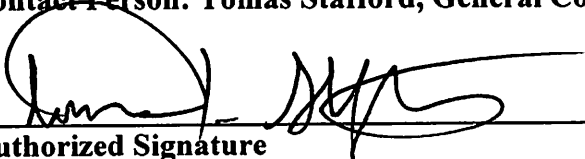
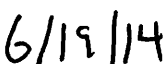
7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

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 sexual misconduct; however, the U.S. Department of Education has issued guidance through Dear Colleague Letters which establish the federal agency’s expectations for institutions of higher education that receive federal funding. This guidance is being enforced by the U.S. Department of Education through the Office for Civil Rights.

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

There is no anticipated economic impact of the proposed rule.

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Authorized Signature Date