

## STATEMENT OF SCOPE FOR ADMINISTRATIVE RULES

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

**Rule No.:** Chapter UWS 11

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

**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 11, Dismissal of Academic Staff for Cause, 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 11 provides a disciplinary process for pursuing dismissal of academic staff, including cases of serious criminal misconduct, such as 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 Chapter 11 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 11, the UW institutions will continue to adhere to the provisions of Chapter UWS 11 and to the federal guidance, but only to the extent that a conflict does not arise between the two. 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. § 36.15(3): “Procedural Guarantees. 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 the notice and hearing which shall be promulgated as rules 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.

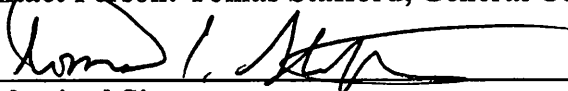
**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

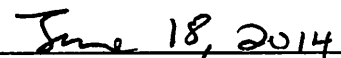
Title IX of the Education Amendments of 1972 provides that “[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Currently, 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.

Contact Person: Tomas Stafford, General Counsel, 608-262-2995

  
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Authorized Signature

  
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Date