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UNIVERSITY OF WISCONSIN  
OSHKOSH

**2022 Annual Security Report & Annual Fire Safety Report  
Oshkosh, Fox Cities, and Fond du Lac Campuses**

(This report is also available at: <https://uwosh.edu/police/clery-uwopd/>)

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## Resources at a Glance

### Safety and Security

#### University Police Department

Emergency.....911  
Non-emergency.....920.424.1212

777 Algoma Blvd., Oshkosh, WI 54901

<https://uwosh.edu/police/>

To help keep our students safe, UWO provides trained Community Service Officers (CSOs) to safely escort community members on and around campus during evening and night hours.

Safe-walk & Safe-ride Services

UWO Mobile App to request safe transportation.

<https://uwosh.edu/police/services/safetransportation/>

#### City of Oshkosh Police Department

Emergency.....911  
Non-emergency.....920.236.5700

420 Jackson St., Oshkosh, WI 54901

<https://www.oshkoshpd.com/>

#### City of Menasha Police Department

Emergency.....911  
Non-emergency.....920.967.3500

430 1<sup>st</sup> St., Menasha, WI 54952

<https://www.cityofmenasha-wi.gov/departments/police/index.php>

#### City of Fond du Lac Police Department

Emergency.....911  
Non-emergency.....920.906.5555

126 N. Main St., Fond du Lac, WI 54935

<https://www.fdl.wi.gov/police/>

### Campus Offices

#### Chancellor's Office.....920.424.0200

Dr. Andrew Leavitt, Chancellor

Oshkosh Campus, Dempsey Hall

<https://uwosh.edu/chancellor/>

#### Assistant Chancellor's Office.....920.929.1106

Dr. Martin Rudd, Assistant Chancellor for Access  
Campuses

Fond du Lac and Fox Cities Campuses

<https://uwosh.edu/fdl/>

<https://uwosh.edu/fox/>

#### Office of the Provost.....920.424.2220

Dr. John Koker, Provost and VC of Academic Affairs

Oshkosh Campus, Dempsey 335

<https://www.uwosh.edu/provost>

#### Dean of Students Office.....920.424.3100

Buzz Bares, Interim Dean of Students

Oshkosh Campus, Dempsey 125

[www.uwosh.edu/deanofstudents/](http://www.uwosh.edu/deanofstudents/)

#### Accessibility Center .....920.424.3100

Disability resources for students.

#### Office of Residence Life.....920.424.3212

Lori Develice Collins, Director

Oshkosh Campus, Gruenhagen Conference Center

<https://uwosh.edu/housing/>

#### Human Resources/EOEAA.....920.424.1166

Shawna Kuether, Associate Vice Chancellor

Oshkosh Campus, Dempsey 328

<https://uwosh.edu/hr/>

#### Employee Assistance Program.....833.539.7285

<https://uwosh.edu/hr/employee-assistance-program/>

### Title IX Personnel

#### Interim Title IX Coordinator.....920.424.0330

Sean Fay, Director EOEAA

Oshkosh Campus, Dempsey 328

[fays@uwosh.edu](mailto:fays@uwosh.edu)

<https://uwosh.edu/titleix/>

#### Title IX Compliance.....920.424.0283

Shawna Kuether, Associate Vice Chancellor HR/EOEAA

#### Title IX Personnel.....920.424.0750

Holly Shea, Deputy Chief Human Resources

#### Title IX Personnel.....920.424.1536

Patricia Schrader, Human Resources Generalist

#### Title IX Compliance.....920.424.4000

Erin Grisham, Vice Chancellor Student Affairs

#### Title IX Personnel.....920.424.3100

Buzz Bares, Interim Dean of Students

#### Title IX. Personnel.....920.424.3100

John Palmer, Assistant Dean of Students

#### Title IX Personnel.....920.424.3100

Kiersten Karlsen, Assistant Dean of Students

#### Title IX Personnel.....920-424-3100

Houa Xiong, Assistant Dean of Students

## Sexual Assault, Domestic Violence, Dating Violence and Stalking Resources

**Sexual Assault Crisis Center**.....920.733.8119  
17 Park Place, Appleton, WI 54914  
24/7 Helpline.....920.733.8119  
<https://www.sacc-foxcities.org/>

**Reach Counseling Services**.....920.722.8150  
1509 S. Commercial St., Neenah, WI 54965  
24/7 Helpline.....920.722.8150  
<https://reachcounseling.com/>

**ASTOP, Inc.**.....920.926.5395  
21 Marr St., Fond du lac, WI 54935  
24/7 Helpline.....920.926.5395  
<https://www.astop.org/>

**Diverse & Resilient LGBTQ+ Resources**  
Appleton.....920.416.8711  
Milwaukee.....414.390.0444  
<https://www.diverseandresilient.org/>

**Christine Ann Domestic Violence Services**...20.235.5998  
206 Algoma Blvd., Oshkosh, WI 54901  
24/7 Helpline.....800.261.5998  
<http://www.christineann.net/>

**Harbor House Domestic Abuse Services**....920.832.1666  
720 W. 5<sup>th</sup> St., Appleton, WI 54914  
24/7 Helpline.....800.970.1171  
<https://www.harborhousewi.org/>

**Solutions Center**.....920.923.2880  
39 N. Sophia St., Fond du Lac, WI 54935  
24/7 Helpline.....800.852.9571  
<https://www.solutionsfdl.com/>

**SPARC**.....No phone  
Stalking Prevention, Awareness, and Resource Center  
<https://www.stalkingawareness.org/>

**RAINN**.....800.656.4673  
Rape, Abuse & Incest National Network  
24/7 Helpline.....800.656.4673  
<https://www.rainn.org/>

## Health Resources

**UWO Student Health Center**.....920.424.2424  
Monday-Friday 8:00 a.m. to 4:30 p.m.  
Oshkosh Campus, Radford Hall  
<https://uwosh.edu/studenthealth/>

**Aurora Medical Center**.....920.303.8700  
855 N. Westhaven Dr., Oshkosh, WI 54904  
**Sexual Assault Nurse Examiner**.....920.456.7420  
Walk-in Emergency Room

**ThedaCare Regional Medical Center**.....920.731.4101  
1818 N. Meade St., Appleton, WI 54911  
**Sexual Assault Nurse Examiner**.....920.731.4101  
Walk-in Emergency Room

**St. Agnes Hospital/SSM Health**.....920.929.2300  
430 E. Division St., Fond du Lac, WI 54956  
Walk-in Emergency Room

## Mental Health Resources

**UWO Counseling Center**.....920.424.2061  
Monday-Friday 7:45 a.m. to 4:30 p.m.  
750 Elmwood Ave., Oshkosh, WI 54901  
[https://www.uwosh.edu/couns\\_center](https://www.uwosh.edu/couns_center)

**UWO EAP Program**.....833.539.7285  
<https://uwosh.edu/hr/employee-assistance-program/>

**Veteran's Crisis Line**.....988 (press 1)  
Or text 838255

**NAMI Helpline**.....800.950.6264  
<https://www.nami.org/help>

**National Suicide Prevention Line**.....988

## Substance Abuse Resources

### Substance Abuse and Mental Health Services

#### Administration

National Helpline.....988  
[www.samhsa.gov](http://www.samhsa.gov)

Alcoholics Anonymous.....866.210.1303  
Narcotics Anonymous.....888.744.0069

## University of Wisconsin Oshkosh - Chancellor Leavitt's Welcome Letter

Dear UW Oshkosh Community Members and Guests,

The number one priority at the University of Wisconsin Oshkosh is the provision and protection of safe campuses for all students, employees and guests. With that commitment at the forefront, I present the Annual Security and Fire Safety Report for 2022.

This annual report is provided to you in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. It contains useful information about safety and security on all three UW Oshkosh campuses: Oshkosh, Fox Cities, and Fond du Lac.

Within this report you will find crime statistics for the previous three years that occurred on or near campuses, including the following locations:

- On-campus student housing
- Certain off-campus buildings or properties owned or controlled by UW Oshkosh
- On public property within or immediately adjacent to and accessible from the campus

UW Oshkosh remains committed to continuous improvement as it provides safe places to learn, grow, serve and succeed. Student, faculty and staff leaders keep a sharp focus on enhancing resources available to help peers and colleagues make informed decisions about their safety and well-being.

The Annual Security Report also contains institutional policies and processes concerning campus security, sexual misconduct and emergency response plans. You will further find information on fire statistics for student housing, a description of fire safety systems in campus housing facilities, fire drill details, student evacuation procedures, policies for fire and safety education as well as plans for future fire safety improvements.

Transparency and accessibility to information that promotes safety and enhances student and employee security and wellness is paramount at UWO. The policies, procedures, programs and data referenced in this report keep this institution accountable to you and every stakeholder invested in UWO as a provider of quality education and employment opportunities in a safe and inclusive environment.

Chancellor Andrew J. Leavitt

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## Preparation of the Annual Security Report and Annual Fire Safety Report

### Policy Statement

The annual publication of the Annual Security Report and the Annual Fire Safety Report fulfills the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.<sup>1</sup> This act, commonly called the Clery Act, requires the annual distribution of an Annual Security Report and Annual Fire Safety Report to all current faculty, staff, and students, and notice of its availability to prospective students, faculty, and staff. The report is intended to provide the campus community with a snapshot of the efforts to address crime on campus through the inclusion of current policies, procedures, and campus crime rates from the past three years.

This report specifically shares campus disciplinary policies, relevant state laws, and policies related to sexual assault, domestic violence, dating violence, sexual exploitation, stalking, and campus safety and security. The Annual Security Report contains UW Oshkosh crime, arrest, and referral statistics for the previous three calendar years including reported crimes that occurred:

- on each campus
- in certain off-campus buildings or on property owned or controlled by the university
- on public property within, or immediately adjacent and accessible from each campus

The Fire Safety Report contains current UW Oshkosh fire safety protocols and fire statistics for the previous three calendar years.

This report has been prepared by the UW Oshkosh Clery committee. To gather information for this report, the Clery committee collaborated with Student Affairs, Human Resources, Residence Life, Facilities, the Student Health Center, Athletics, and the Office of Equal Opportunity, Equity & Affirmative Action. The Chief of Police and the Title IX Coordinator share the responsibility of preparing and publishing this report. Committee members consist of UW Oshkosh employees from the University Police Department, the Dean of Students Office, the Residence Life Office, and the Office of Compliance, Risk, and Integrity. The UW Oshkosh Clery committee meets regularly to discuss and compile crime, arrest, and referral statistics to ensure statistics are not missed or double counted.

Campus Crime statistics are gathered through reports made to the University Police Department, the Title IX Coordinator, the Dean of Students Office, Residence Life, Human Resources, reports submitted by other Campus Security Authorities and other campus community members. The University Police Department also requested crime statistics from external law enforcement agencies for off-campus buildings or property within UW Oshkosh Clery defined geography.

UW Oshkosh distributes a Notice of Availability of this report by October 1 of each year. Anyone may obtain a paper copy of this report by contacting University Police, 920.424.1212, or [uwopolice@uwosh.edu](mailto:uwopolice@uwosh.edu), or by visiting the department in Radford Hall - Lower Level, 777 Algoma Blvd., Oshkosh, WI 54901.

\*The statistics presented in the calendar year 2020 columns reflect student housing facilities being closed from March 2020 to September 2020, except for Gruenhagen Conference Center, which remained open to students who were unable to return home during the COVID-19 transition to remote classes (approximately 140 students). These statistics also reflect most university employees moving to remote work from March 2020 through the end of December 2020.

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<sup>1</sup> 20 U.S.C. § 1092(f); 34 C.F.R. 668.46.

## Clery Crime Statistics

The following Annual Security Report provides crime statistics for selected crimes that have been reported to local police agencies or to Campus Security Authorities (CSA's). The statistics reported for the sub-categories on liquor laws, drug laws, and weapons offenses represent the number of people arrested or referred to campus judicial authorities for respective law violations, not the number of offenses documented. This report complies with 20 U.S. Code Section 1092(f).

### UW Oshkosh - Oshkosh Campus

OFFENSES	Year 2021					Year 2020					Year 2019				
	ON-CAMPUS PROPERTY		Public Property	Non-Campus		ON-CAMPUS PROPERTY		Public Property	Non-Campus		ON-CAMPUS PROPERTY		Public Property	Non-Campus	
	Residence Hall	Total On-Campus				Residence Hall	Total On-Campus				Residence Hall	Total On-Campus			
Murder/Non-negligent Manslaughter	0	0	0	0		0	0	0	0		0	0	0	0	
Manslaughter by Negligence	0	0	0	0		0	0	0	0		0	0	0	0	
Rape	4	5	0	0		1	1	0	0		5	5	0	0	
Fondling	5	5	0	0		1	1	0	0		1	1	0	0	
Statutory Rape	0	0	0	0		0	2	0	0		0	0	0	0	
Incest	0	0	0	0		0	0	0	0		0	0	0	0	
Robbery	0	0	0	0		0	2	0	0		0	0	0	0	
Aggravated Assault	0	0	0	0		0	0	0	0		0	0	0	0	
Burglary	0	0	0	0		2	2	0	0		3	3	0	0	
Motor Vehicle Theft	0	3	0	0		0	0	0	0		0	1	0	0	
Arson	0	0	0	0		0	0	0	0		0	0	0	0	
VAWA OFFENSES															
Domestic Violence	0	0	0	0		0	0	0	0		1	1	0	0	
Dating Violence	2	2	0	0		1	1	0	0		4	6	0	0	
Stalking	0	0	0	0		3	3	0	0		1	1	0	0	
ARRESTS															
Weapons	0	0	2	0		0	0	1	0		0	0	1	0	
Drugs	6	6	10	0		21	29	13	0		21	26	14	0	
Liquor	0	0	0	0		0	0	0	0		0	0	0	0	
REFERRALS															
Weapons	3	3	0	0		0	0	0	0		0	0	0	0	
Drugs	45	43	3	0		51	62	3	0		78	90	2	0	
Alcohol	577	638	61	5		369	395	30	0		565	600	19	0	
HATE CRIMES															
Murder/Non-negligent Manslaughter	0	0	0	0		0	0	0	0		0	0	0	0	
Rape	0	0	0	0		0	0	0	0		0	0	0	0	
Fondling	0	0	0	0		0	0	0	0		0	0	0	0	
Statutory Rape	0	0	0	0		0	0	0	0		0	0	0	0	
Incest	0	0	0	0		0	0	0	0		0	0	0	0	
Robbery	0	0	0	0		0	0	0	0		0	0	0	0	
Aggravated Assault	0	0	0	0		0	0	0	0		0	0	0	0	
Burglary	0	0	0	0		0	0	0	0		0	0	0	0	
Motor Vehicle Theft	0	0	0	0		0	0	0	0		0	0	0	0	
Arson	0	0	0	0		0	0	0	0		0	0	0	0	
Larceny-Theft	0	0	0	0		0	0	0	0		0	0	0	0	
Simple Assault	0	0	0	0		0	1(S)	0	0		0	0	0	0	
Intimidation	0	0	0	0		0	0	0	0		0	0	0	0	
Destruction/Damage/Vandalism to Property	0	0	0	0		0	0	0	0		0	0	0	0	

## UW Oshkosh- Fox Cities Campus

OFFENSES	Year 2021				Year 2020				Year 2019			
	ON-CAMPUS PROPERTY		Public Property	Non-Campus	ON-CAMPUS PROPERTY		Public Property	Non-Campus	ON-CAMPUS PROPERTY		Public Property	Non-Campus
	Residence Hall	Total On-Campus			Residence Hall	Total On-Campus			Residence Hall	Total On-Campus		
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Manslaughter by Negligence	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	0	0	0	0	0	0	0
Fondling	0	1	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0
Oncest	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0
<b>VAWA OFFENSES</b>												
Domestic Violence	0	0	0	0	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	1	1			2	2	0	0
Stalking	0	0	0	0	0	0	0	0	0	1	0	0
<b>ARRESTS</b>												
Weapons	0	0	0	0	0	0	0	0	0	0	0	0
Drugs	0	0	0	0	0	0	0	0	0	0	0	0
Liquor	0	0	0	0	0	0	0	0	0	0	0	0
<b>REFERRALS</b>												
Weapons	0	0	0	0	0	0	0	0	0	0	0	0
Drugs	0	0	0	0	0	0	0	0	0	0	0	0
Alcohol	0	0	0	0	2	2	0	0	11	11	0	0
<b>HATE CRIMES</b>												
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	0	0	0	0	0	0	0
Fondling	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0
Larceny-Theft	0	0	0	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0
Destruction/Damage/Vandalism to Property	0	0	0	0	0	0	0	0	0	0	0	0

## UW Oshkosh – Fond du Lac Campus

OFFENSES	Year 2021				Year 2020				Year 2019			
	ON-CAMPUS PROPERTY		Public Property	Non-Campus	ON-CAMPUS PROPERTY		Public Property	Non-Campus	ON-CAMPUS PROPERTY		Public Property	Non-Campus
	Residence Hall	Total On-Campus			Residence Hall	Total On-Campus			Residence Hall	Total On-Campus		
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Manslaughter by Negligence	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	0	0	0	0	0	0	0
Fondling	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0
Oncest	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0
<b>VAWA OFFENSES</b>												
Domestic Violence	0	0	0	0	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0			2	2	0	0
Stalking	0	0	0	0	0	0	0	0	0	0	0	0
<b>ARRESTS</b>												
Weapons	0	0	0	0	0	0	0	0	0	0	0	0
Drugs	0	0	0	0	0	0	0	0	0	0	0	0
Liquor	0	0	0	0	0	0	0	0	0	0	0	0
<b>REFERRALS</b>												
Weapons	0	0	0	0	0	0	0	0	0	0	0	0
Drugs	0	0	0	0	0	0	0	0	0	0	0	0
Alcohol	0	0	0	0	0	0	0	0	2	2	0	0
<b>HATE CRIMES</b>												
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	0	0	0	0	0	0	0
Fondling	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0
Larceny-Theft	0	0	0	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0
Destruction/Damage/Vandalism to Property	0	0	0	0	0	0	0	0	0	0	0	0

**Hate Crime Key:** (D) Disability, (E) Ethnicity, (Ra) Race, (Re) Religion, (S) Sexual Orientation, (G) Gender, (N) National Origin, (G) Gender Identity

\*Unfounded: not included in Clery offense counts. \*\* (Note any updates from previous years—also put a double asterisk next to the revised portion on the chart).

- Underage drinking is a civil offense in the state of Wisconsin, not a criminal offense, and therefore tickets issued for underage drinking are not classified as “arrests,” as per Clery Act regulations.
- In accordance with new guidance from the Department of Education, “Unfounded Crimes” are reported in aggregate.
- Crimes committed between roommates or former roommates, without a current or former intimate relationship, are not counted in “Domestic Violence” or “Dating Violence” statistics (VAWA, 34 CFR Part 668, 2014).

## Unfounded Crimes

4 reported crimes were unfounded in 2021.

## University of Wisconsin Campus Security Policies

### UW Oshkosh Role, Authority, and Training

The University Police Department protects and serves the UW Oshkosh community with sworn and commissioned law enforcement personnel, on-call 24 hours a day, and 7 days a week. These officers have the power to arrest and bring before the proper courts any persons violating the law on university property. University Police officers are armed and are generally responsible for enforcing all laws, rules, and regulations, in accordance with s. 36.11(2), Wisconsin Statutes. All UW Oshkosh officers complete on-going, rigorous training.

The University Police Department has memoranda of understanding (MOU's) with the City of Oshkosh, City of Menasha, and City of Fond du Lac Police Departments. For all other locations, where we don't have a physical campus, UW Oshkosh encourages cooperation with local police authorities to monitor and record information concerning criminal activity that involves UW Oshkosh students or student organizations. The University Police and City of Oshkosh Police share daily shift activity information to further the integration of services between the two departments to help keep the University community and local community safe.

UW Oshkosh Fox Cities and Fond du Lac campuses do not have campus security, but University Police will patrol these campuses and assist local law enforcement when issues arise.

### Reporting Crimes

The University of Wisconsin Oshkosh has several ways for campus and other community members to report crimes and other emergencies to law enforcement and to appropriate university officials. University Police encourage prompt reporting of all crimes. Prompt reporting allows university personnel to investigate and determine if additional follow-up is necessary, including a Timely Warning or Emergency Notification to the campus community.

Crimes that occur off campus (Oshkosh campus) can be reported to the City of Oshkosh Police Department by calling the non-emergency number 920.236.5700, by calling 911 in emergencies, or by going to the department at 420 Jackson St., Oshkosh, WI 54901.

Crimes that occur on or off campus at the UW Oshkosh Fox Cities campus can be reported to the Menasha Police Department by calling the non-emergency number at 920.967.3500, by calling 911 in emergencies, or by going to the department at 430 1st St., Menasha WI 54952. Department

Crimes that occur on or off campus at the UW Oshkosh Fond du Lac campus can be reported to the City of Fond du Lac Police Department by calling the non-emergency number at 920.906.5555, by calling 911 in emergencies, or by going to the department at 126 N. Main St., Fond du Lac, WI 54935.

Any person may report crimes to the following departments or offices:

Reports to the University	Reports to Law Enforcement
<b>Title IX/Sexual Misconduct Reporting</b> Title IX Coordinator EOEAA Office, Dempsey 328 800 Algoma Blvd., Oshkosh, WI 54901 <a href="#">Official Title IX Reporting Form</a> (Located on <a href="#">UWO Title IX website</a> ) Email: <a href="mailto:titleix@uwosh.edu">titleix@uwosh.edu</a> Phone: 920.424.0330	<b>University Police Reporting</b> Emergency 911 <b>UWO Police Department</b> Radford Hall Lower Level 777 Algoma Blvd., Oshkosh, WI 54901 Email: <a href="mailto:uwopolice@uwosh.edu">uwopolice@uwosh.edu</a> Phone: 920.424.1212

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<p><b>Clery Crime Reporting</b></p> <p>To anonymously report a crime; students, guests, UWO Student Health Center providers, and parents/guardians can use the form below. UWO employees should report crimes other than sexual misconduct directly to the UWO Police Department.</p> <p><a href="#">Clery Reporting Form</a> (Located on the <a href="#">UWO Police website</a>)</p>	<p><b>Local Law Enforcement Reporting</b></p> <p>Emergency 911</p> <p><b>City of Oshkosh Police Department</b> 420 Jackson Street, Oshkosh, WI 54901 Phone: 920.236.5700</p> <p><b>Fond du Lac Police Department</b> 126 N. Main Street, Fond du Lac, WI 54935 Phone: 920.906.5555</p> <p><b>Menasha Police Department</b> 430 1st Street, Menasha, WI 54952 Phone: 920.967.3500</p>
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UW Oshkosh strongly encourages all crimes be reported to assure the University can assess security and safety concerns and inform the community if there is a significant or on-going threat to the university community. UW Oshkosh encourages accurate and prompt reporting of all crimes to University Police when the victim of the crime elects to do so and encourages the community to report when the victim is unable to do so.

## Reporting Sexual Misconduct

Individuals who experience sexual misconduct have options in both reporting and participating in university or law enforcement processes. Sexual misconduct is an umbrella term for all prohibited sexual and interpersonal violence including, sexual assault-rape, sexual assault-fondling, domestic and dating violence, and stalking as defined by federal and state law and UW Oshkosh policy. Reporting options are listed below.

<p><b>To report an emergency, dial 911.</b></p>
<p><b>Report to the University.</b> An individual may report sexual misconduct to the University through the University Title IX Coordinator.</p> <p>Sean Fay, Interim Title IX Coordinator, <a href="mailto:titleix@uwosh.edu">titleix@uwosh.edu</a>, 920-424-0835, Dempsey Hall 337, or use the <a href="#">Title IX Sexual Misconduct Reporting Form</a></p> <p><b>Note:</b> Reports made to the University do not go to law enforcement. Reporting to the University allows victims/survivors to receive full information about their options, rights, and resources. Victims/survivors also have a right to file a formal complaint which initiates a university investigation and grievance process. Victims/survivors may seek supportive or protective measures without filing a formal complaint.</p>
<p><b>An individual may elect to not officially report at all and/or to seek confidential support services only</b> such as healthcare or counseling. Note: Student Health Center personnel will have to include statistical information about sexual misconduct occurring on campus with no personal identifying information about the victim/survivor.</p>
<p><b>Report to campus law enforcement:</b></p> <p>University Police, <a href="mailto:uwopolicy@uwosh.edu">uwopolicy@uwosh.edu</a>, 920-424-1212, Radford Hall, Lower Level.</p> <p>Note: Reports made to University Police are forwarded to the Title IX Coordinator.</p>
<p><b>Report anonymously</b> on the <a href="#">Clery Reporting Form</a>.</p> <p>The purpose of the Clery Crime Reporting Form is to collect unreported crime information and referral statistics (as required by federal law) to inform the university community and the public of unreported crimes. Not all crime victims/survivors choose to report to the University or to law enforcement but may still want their crimes counted or acknowledged in crime statistics. Collecting all crime information assists university personnel in identifying and creating prevention programming and services in response to crime patterns, and to gather and disclose crime</p>

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information accurately and promptly for Timely Warnings/Emergency Notifications and in the UW Oshkosh Annual Security Report.

More information about this reporting process can be found on the University Police website, <https://uwosh.edu/police/>.

**Note:** Reporting anonymously is an option for victims/survivors, confidential resources, guests, and parents or guardians only. Reporting anonymously will not result in a university or campus police response or investigation, unless it is determined from the information provided, there is an on-going physical threat to an individual or the greater campus community. Anonymous reports may limit the University and University Police from responding effectively to reports. If an individual is seeking a university or campus police response and/or investigation, they should use the official reporting options listed above.

### **Report to local law enforcement:**

911 in an emergency

City of Oshkosh Police, 920.236.5700

Menasha Police Department, 920.967.3500

City of Fond du Lac Police, 920.906.5555

Individuals also have the option to file a complaint with the [U.S. Department of Education Office for Civil Rights](https://www.dhs.gov/eo-sa/oeo) if they feel they have been discriminated against based on sex or gender by the University.

**Note:** An individual may make a report to one or more of the offices or individuals noted above.

## Non-campus Locations of Officially Recognized Student Organizations

UW Oshkosh has officially recognized and registered student organizations, including fraternities and sororities with non-campus housing. Student members of fraternity and sorority governing boards are advised by the UW Oshkosh Greek Advisor and are in regular communication regarding safety concerns and local ordinances.

The City of Oshkosh Police Department has primary jurisdiction in most off-campus areas. Other county (Winnebago County Sheriff's Office), state (Wisconsin State Patrol) and several federal agencies also provide law enforcement services in the area. The City of Oshkosh Police Department monitors criminal activity and crime statistics at these non-campus locations in the same manner it would at any other location within its jurisdiction, and not at the request of the University of Wisconsin Oshkosh.

University Police and City of Oshkosh Police routinely work with the Title IX Coordinator, the Dean of Students Office and other appropriate university officials for any serious incidents occurring off campus when a UW Oshkosh student is involved. There is also communication between University Police and fraternities and sororities for any on campus events. Sorority and Fraternity events are required to have sober monitors in attendance at all events that include alcohol consumption. This includes third-party venues. To request a social event students must fill out a form found at this link: <https://uwosh.edu/reeve/forms/greek-life-social-event/>. This form must be submitted in compliance with the UW Oshkosh Fraternity & Sorority Social Event Policy adopted by Interfraternity Council & Panhellenic Council and supported by the Office of Fraternity and Sorority Life. The document was approved for enforcement on September 12, 2016.

Participants can report unsafe activity to the University Police or Dean of Students Office. Any disciplinary action will follow the policies and procedures outlined in UWS 17.

## Voluntary, Anonymous Crime Reporting

UW Oshkosh offers voluntary, anonymous crime reporting for the purpose of including unreported crime statistics in the Annual Security Report. Not all crime victims/survivors choose to report to the University or to law enforcement but may still want their crimes counted or acknowledged in crime statistics. Collecting all crime information assists the University in identifying and creating prevention programming and services in response to crime patterns, and to gather and disclose crime information accurately and promptly for Timely Warnings and in the Annual Security and Fire Safety Report.

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If victims of crimes do not want to pursue action within the university or criminal justice systems, they are still encouraged to consider filing a voluntary, anonymous report. Depending on the circumstances of the crime individuals are reporting, they may be able to file a report while maintaining confidentiality. Filing an anonymous report may allow the institution to pursue interventions and/or investigations, while keeping personally identifying information private. In limited circumstances, the University may not be able to assure confidentiality and will inform individuals in those cases. Anonymous reports are counted and disclosed in the Annual Security and Annual Fire Safety Report without any personally identifying information.

UW Oshkosh maintains an online reporting form for voluntary, anonymous reports at <https://uwosh.edu/police/report-a-clery-incident/> to collect statistical information for the Annual Security and Fire Safety Report (ASR). This form does not require the victim's name to submit the form. If the crime did not occur on UW Oshkosh Clery geography,<sup>2</sup> or it cannot be determined from the report whether the act occurred on UW Oshkosh Clery geography, it will not be included in the ASR.<sup>3</sup>

More information about this reporting process can be found on the UWO Police website, <https://uwosh.edu/police/>.

As a matter of policy, UW Oshkosh directs individuals to report Clery crimes to the University Police, but non-confidential and non-anonymous reports can be made to any Campus Security Authority. In some instances, these reports may initiate investigations when it is determined there may be an on-going threat to an individual or the wider campus community.

## Confidential Sexual Misconduct Disclosures

Crimes that involve sexual misconduct (sexual assault, dating and domestic violence, and stalking) can be disclosed confidentially to the following offices: the Student Counseling Center and the Student Health Center. These are the only confidential campus resources available to students, attending any of the three UW Oshkosh campus locations, who do not have to bring sexual misconduct disclosures forward to the University. However, the Student Health Center will need to report sexual misconduct crime statistics with no personally identifying information about the victim/survivor for the Annual Security Report. Disclosures of sexual misconduct to any other UWO employee will need to be reported to the University Title IX Coordinator per policy and law. These reports do not go to law enforcement.

## Professional and Pastoral Counselors

Professional mental health counselors who are appropriately credentialed and hired by UW Oshkosh to serve in a counseling role are not considered Campus Security Authorities (CSAs). Disclosures or reports of Clery crimes made to these individuals by victims/survivors are not required to be reported for inclusion in the Annual Security Report or for a Timely Warning evaluation. UW Oshkosh encourages our professional counselors, when they deem it appropriate, to inform their clients of the procedures to report crimes on a voluntary, anonymous basis, and/or on a non-anonymous official reporting basis, so they are informed of all their options and rights, and for inclusion in the annual disclosure of crime statistics. Counselors can assist clients in making a report, when desired and appropriate.

UW Oshkosh does not employ pastoral counselors.

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<sup>2</sup> Clery Act, Department of Education, available at <http://www2.ed.gov/admins/lead/safety/campus.html>

<sup>3</sup> This is in compliance with Federal guidelines, see generally U.S. Department of Education, The Handbook for Campus Safety and Security Reporting (2016), available at <https://www2.ed.gov/admins/lead/safety/handbook.pdf>



## Timely Warning Reports

The University Police Department will issue “Timely Warnings” in the event of a Clery Act Crime that may pose a serious or ongoing threat to members of the community. These warnings may be issued for the following: arson; aggravated assault; criminal homicide; domestic and dating violence; robbery; burglary; motor vehicle theft, sexual assault; hate crimes; and stalking. UW Oshkosh may also issue a Timely Warning for liquor, drug and weapon arrests or referrals that may present a continuing threat to the community. Timely Warnings will be distributed in several ways including, via text message and through university email. Timely Warnings may also be sent via social media through UW Oshkosh and University Police Facebook and Twitter pages.

The University’s Chief of Police, or their designee, has the authority to develop the content of a Timely Warning and authorize distribution using the guidelines listed below. In determining the appropriateness of a warning, the Chief of Police, or their designee, will consider the type of offense, location, nature of any threat, and whether there is a continuing threat to the community or a continuing crime pattern. Some information may be withheld if there is a risk of compromising law enforcement efforts to investigate or solve the crime. Timely Warnings will not identify victims of the crime by name. Timely Warnings are issued as soon as the pertinent information is available to the Chief of Police, or their designee, and are sent through a mass email message to the entire university community through the Rave Mobile Safety System. Other forms of communication available are text message and social media accounts (Facebook and Twitter). In addition, Crime Alerts may also be shared by posting on uwosh.edu, uwosh.edu/up, press releases, postings/notices at appropriate locations or the use of the UW Oshkosh electronic sign boards.

The following factors will be considered when determining whether to issue a Timely Warning:

- Where the crime occurred.
- The nature of the crime (serious/non-serious, violent/non-violent).
- The nature of the threat (general threat versus limited threat to a specific person).
- Whether or not there is a continuing danger to the community or continuing crime pattern.

A Timely Warning Notice will typically include the following, unless issuing any of this information would risk compromising law enforcement efforts:

- The date and time or timeframe of the incident.
- A brief description of the incident.
- Information that will promote safety and potentially aid in the prevention of similar crimes (crime prevention or safety tips).
- Suspect description(s)/photo(s) when deemed appropriate and if there is sufficient detail.
- Police agency’s contact information.
- Safety tips.
- Other information as deemed appropriate.

UW Oshkosh will generally not issue crime warnings for crimes occurring beyond the immediate UW Oshkosh Clery-designated geographical areas if the Chief of Police, or their designee, determines, (1) there is no serious or continuing threat to the safety of UW Oshkosh students and employees, (2) if the subject of the threat has been apprehended, or (3) if a report was not filed in a manner that would allow for a Timely Warning. This will be determined on a case-by-case basis.

## Emergency Notification

UW Oshkosh is committed to immediately notifying the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus. UW Oshkosh uses *Titan Alerts* to send messages in the same manner as a Timely Warning, through

text message, campus email, campus BRG clocks, as well as social media accounts (Facebook and Twitter). Additionally, the University Marketing and Communications website will contain the most up to date information regarding any emergency notification sent to the campus community, <https://uwosh.edu/umc/>.

In the event of an emergency, students and employees will be directed to a safe location, and residence halls will be secured. The Emergency Response Team will direct individuals to evacuate the premises, or stay in place, as appropriate.

### Confirming the Existence of a Significant Emergency or Dangerous Situation and Initiating the Emergency Notification System

The University Police are responsible for confirming there is a significant emergency or dangerous situation involving an immediate threat to the health and safety of students and employees occurring on campus. University Police personnel determine if there is an emergency or dangerous situation by working in conjunction with key administrative units: Facilities, Information Technology, building managers, local first-responder agencies, and public health agencies.

Upon confirmation of an emergency or dangerous situation involving an immediate threat to the health and safety of students and employees occurring on campus, University Police will determine the content of the notification and initiate the notification system, unless issuing a notification will in the professional judgment of University Police Department personnel, compromise efforts to assist a victim, or to contain, mitigate, or otherwise respond to the emergency or situation.

### Determining the Appropriate Segment(s) of the Campus Community to Receive an Emergency Notification

University Police shall make the initial assessment to determine if a significant emergency exists and will immediately consult with UW Oshkosh administrators to determine the content of and to send out an initial Emergency Notification/*Titan Alert* indicating the nature of the emergency. UW Oshkosh administrators may include the Chancellor, Provost & Vice Chancellor, Vice Chancellor for Student Affairs, and the Vice Chancellor for University Affairs. Any divisions that may be directly involved or have specific knowledge regarding the emergency may also be included. The determination of the appropriate segment of the community to receive the messages is based on the affected area/community. This decision is also made by University Police and university administrators as they determine which methods will be utilized for notification. Utilizing UWO electronic boards and speakers allows specific buildings and/or segments of campus to be notified of potential dangers. A fire or closing of a specific building due to a chemical spill may be examples of appropriate incidents for notification to a segment of the campus. To notify all campus community members quickly and easily regarding an emergency or dangerous situation, the Rave Mobile Safety System can send messages through email, text, social media accounts (Facebook and Twitter) as well as the electronic boards, campus speakers, and the UWO Mobile App.

### Determining the Contents of the Emergency Notification

The speed and accuracy of issuing information is vital in Emergency Notifications. To expedite this process and ensure each message contains essential information, the mass notification system may contain pre-scripted templates for the most probable or highest impact emergencies. These messages identify the situation, allow for input of the location, and identify the immediate protective action that should be taken. The individual authorizing the message will select the most appropriate template or may tailor a specific message for the emergency. University Police dispatchers are responsible for consulting with patrol personnel and disseminating emergency messages to the UW Oshkosh campus community. The dispatcher uses Rave Technologies to populate a messaging platform that pushes messaging to all our communication channels.

### Procedures to Notify the Campus Community

In the event of a situation posing an immediate threat to members of the campus community, the campus has various systems in place for communicating information quickly. Some or all of these methods may be activated in the event of an emergency. These methods of communication include:

- Text messages to community members who opt-in to receive these types of alerts.
- Mandatory email notification to all employees and students.
- Push to the UW Oshkosh and University Police Department Facebook pages.
- Push to the UW Oshkosh and University Police Department Twitter accounts.
- Push to the digital clock system located throughout the Oshkosh campus.
- Push notification to users who have the UWO Mobile App downloaded on their phone.

### Procedures for Disseminating Emergency Information to the Larger Community

If the campus activates its Emergency Notification in response to a situation that poses an immediate threat to members of the campus community, the University Police will notify the larger community about the situation and the steps the campus has taken to address the emergency. University Police are responsible for messaging during these emergency situations, and they will use Rave Technologies to communicate the information using the following methods of communication: text messages to community members who opt-in to receive these type of alerts, mandatory email notification to all employees and students, social media posts (Facebook and Twitter), push notification to the digital clock system located throughout the Oshkosh campus, and push notification to users who have the UWO Mobile App downloaded on their phone.

### Enrolling in the UW Oshkosh Mass Notification System

We encourage employees and students to enroll in our Titan Alert (Emergency Notification) System. UW Oshkosh employees and students can enroll in our Titan Alert System by visiting <https://uwosh.edu/emergency/>. Scroll down to the Titan Alert link on the right side of the page and log in using your NetID. Employees or students can also visit [www.getrave.com](http://www.getrave.com) search “Oshkosh” and then log in using their NetID. Community members who aren’t current students or employees but wish to receive emergency notifications while on campus can and should download the “UWO Mobile” app to receive emergency notifications via push notification.

### On-Campus Safety Services

UW Oshkosh has blue light emergency phones strategically placed throughout the Oshkosh campus and one on the Fox Cities campus. UW Oshkosh also has emergency phones in elevators and public access phones near entrances to buildings. University Police, in partnership with the Department of Residence Life and Oshkosh Student Association, offer Safe-walk and Safe-ride services for students, faculty, staff and campus guests. More information on these services can be found here, <https://uwosh.edu/police/services/safetransportation/>.

The University Police Department is a full-service, 24/7/365 agency with 15 full-time sworn law enforcement professionals who are certified by the Wisconsin Law Enforcement Standards Board each year. All University Police officers have the power and authority to make an arrest. Sworn personnel respond to both emergency and non-emergency incidents and investigations. The University Police Department’s Lieutenant position is also identified as the Emergency Manager for the Oshkosh campus. This position builds the emergency plans for our campus community and leads the Emergency Response Team. In addition, the University Police Department provides services through its own non-emergency Communications Center and is further supported by approximately 45 non-sworn Community Service Officers (CSOs). Sworn personnel and CSO’s patrol the UW Oshkosh campuses by vehicle, bicycle, and foot. Each officer and CSO is assigned to a geographic area of responsibility for community interaction, crime prevention, and problem solving. More information about how to communicate directly with officers assigned to specific geographic areas is available on the University Police website or in the UWO Mobile App.

## Missing Student Notification for Students in On-Campus Housing

The University of Wisconsin Oshkosh has on-campus student housing facilities. As part of the housing assignment process, each prospective residence hall student, regardless of age, is required to provide an emergency contact name and telephone number for missing person purposes, which the Residence Hall Director on duty will provide to the University Police Department, if necessary. Students' contact person information is registered confidentially. The information is accessible only to authorized campus officials and may not be disclosed, except to law enforcement personnel in furtherance of a missing person's investigation.

If a student is reported to be missing, the Residence Hall Director (RHD) on duty should be notified. When a Community Advisor (CA), Assistant Residence Hall Director (ARHD), or Residence Hall Director is notified initially, they will immediately notify the Residence Life Director. Once a student is reported to be missing, Residence Life will immediately notify the University Police Department, who will begin an investigation. The University Police will be informed if the missing person is under 18 years of age and not emancipated. If the missing student is under 18 years of age and not emancipated, the University Police will notify the City of Oshkosh Police Department, custodial parent(s) or guardian, and any additional contact person designated by the student within 24 hours of the determination that the student is missing. If a student is over 18 years of age or emancipated, the University Police will notify the emergency contact, if any, and the City of Oshkosh Police Department within 24 hours of the determination that the student is missing.

If under 18 and not emancipated:	If 18+ or emancipated:
Within 24 hours of determining whether the student is missing, University Police will notify: <ul style="list-style-type: none"><li>• City of Oshkosh Police Department</li><li>• Custodial parent(s) or guardian</li><li>• Any additional contact person designated by the student</li></ul>	Within 24 hours of determining whether the student is missing, University Police will notify: <ul style="list-style-type: none"><li>• The student's emergency contact(s)</li><li>• City of Oshkosh Police Department</li></ul>

If the City of Oshkosh Police Department was the entity that originally made the determination that the student was missing, there is no need for the University Police to notify the City of Oshkosh Police Department. Prior to notifying University Police, Residence Life will take the following steps:

- The Residence Life staff member will file an incident report in the campus database.
- The Residence Life staff member will direct CAs to gather information on the missing student.
- Dining staff will be asked to determine the last time and location the student accessed dining services.
- The Residence Hall Director will confirm the last time and location the student had building access.

If the missing student is not located after the above measures, University Police will be notified immediately and be provided the information listed above, along with the missing student's emergency contact information. Important phone numbers to know:

- Residence Life: 920.424.3212
- University Police: 920.424.1212 or 911 (emergencies)

## Emergency Response and Evacuation

### Emergency Response Team

To make the UW Oshkosh campuses safer and more secure, the University established a campus-wide Emergency Response Team. The Emergency Response Team consists of trained campus volunteers from various departments to ensure the inclusion of a wide variety of expertise. The Emergency Response Team supplements the University Police and Risk Management Department's efforts in multiple ways, including but not limited to, assisting with the assessment

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and evaluation of current emergency procedures, participating in exercises aimed to educate the campus community of emergency procedures, and providing low-risk assistance during an emergency.

In addition to the Emergency Response Team, the following individuals are involved in confirming/responding to emergency situations:

Purpose	Official	Address	Phone Number
Health	Director of Student Health	777 Algoma Blvd., Oshkosh campus	920.424.2424
Health	Oshkosh Fire & EMS	101 Court St., Oshkosh, WI 54901	920.236.5240 (911)
Emergency Response Team	University Police	777 Algoma Blvd., Oshkosh campus	920.424.1212 (911)
Emergency Notifications	University Police	777 Algoma Blvd., Oshkosh campus	920.424.1212 (911)
Criminal Response	University Police	777 Algoma Blvd., Oshkosh campus	920.424.1212 (911)

### Drills, Exercises, and Training

To ensure the UW Oshkosh Emergency Response Team remains current and actionable, the campus conducts at least six tabletop exercises each year involving emergencies that could involve any of our three campuses. Examples of some of these tabletop exercises include responding to a pandemic, severe weather creating a long-term power outage, and an active threat scenario. After the tabletop exercises are complete, an After-Action Report is completed, identifying what processes the University has in place that are successful and need to be maintained as well as what gaps the Response Team has identified and need corrective action. Those gaps turn into actionable items, which are given to the appropriate member or members of the Emergency Response Team to complete. Members of the Emergency Response Team take information acquired from the tabletop exercise back to their individual departments to ensure those within their department and those they serve are familiar with university expectations during each of these emergencies.

In addition to the Emergency Response Team's tabletop exercises, the University's Emergency Manager works with the University Environmental Health and Safety (EHS) Coordinator and a Residence Life Coordinator to schedule annual fire/evacuation drills in the residence halls and in academic buildings, and tornado drills during Severe Weather Awareness week. Prior to these drills, employees are notified via email about when these mandatory drills will take place, and include the time, date, and location of each drill. Prior to activating the alarms in each building, those in the building are randomly surveyed, asking if they knew where they would evacuate to during an evacuation. This survey allowed those assisting in the drills to educate those in the building where the evacuation maps were and of the best evacuation route. This survey was completed prior to the tornado drills as well. Communication about tornado drills is also completed via email to all faculty and staff. Communication provides information on where their designated shelter locations are located to prepare themselves for the drills. During the statewide drill, the University Police sent communication out through the University Emergency Notification system called *Titan Alert*. *Titan Alert* also sends the Emergency Notification through university email, through registered cell phones via a text message, through the UWO Mobile App as a push notification, as well as through campus Emergency Messaging BRG clocks on the Oshkosh campus.

The exercises and drills are assessed based on how well they conform to the EHS Coordinator and Emergency Manager's goals. These goals include: (1) everyone involved in the emergency response and notification procedures will understand their role and responsibility, (2) all systems will allow mass emergency communications to remain operable, (3) all evacuation routes and shelter locations are posted and updated in every campus building, and (4) no emergency communication can be missed no matter where someone is on our campuses. The assessment is then discussed

between the EHS Coordinator and the Emergency Manager for follow-up discussions with supervisors. Follow-through activities including in-person discussions to obtain feedback from participants are also discussed with supervisors.

A description of the test, the exercise, the date, time, and whether it was announced or unannounced, is recorded with the University EHS Coordinator. These reports are retained for seven years. This information is also regularly distributed in the Annual Security Report.

### Security and Access to UW Oshkosh Facilities

General access to and use of the facilities at UW Oshkosh is governed by University of Wisconsin System Chapter 21, Wisconsin Administrative Code<sup>4</sup>.

#### Academic and Administrative Buildings

The UWO, Oshkosh campus is open to faculty, staff, students, and the public. The academic and administrative buildings are open to the public during normal business hours. Most facilities have individual hours, and the hours may vary at different times of the year. Access to these buildings is controlled by either key or card access after normal business hours, and all UWO buildings have varied levels of access. University Police patrol the area and conduct safety checks for building access. There is limited access to academic buildings on Saturdays and Sundays. For information about the access protocol for a specific building, community members may contact the building manager, a department head, or Facilities Management during regular business hours, or University Police after hours at 920.424.1212.

The UWO, Fox Cities campus is open to faculty, staff, students, and the public. The academic and administrative buildings are open to the public during normal business hours and the hours may vary at different times of the year. Access to these buildings is controlled by either key or card access after normal business hours. There is limited access to academic buildings on Saturdays and Sundays. For information about the access protocol for the campus buildings, contact the campus administrator during regular business hours at 920.832.2643, or University Police after hours at 920.424.1212.

The UWO, Fond du Lac campus is open to faculty, staff, students, and the public. The academic and administrative buildings are open to the public during normal business hours and the hours may vary at different times of the year. Access to these buildings is controlled by either key or card access after normal business hours. There is limited access to academic buildings on Saturdays and Sundays. For information about the access protocol for the campus buildings, contact the campus administrator during regular business hours at 920.929.1106, or University Police after hours at 920.424.1212.

#### Special Considerations for Residence Hall Access

Authorized residents can enter any door through card access during daytime hours. However, all residence halls doors are locked at 9:30 p.m. (or earlier depending on events in the community) until 9:00 a.m. or 10:00 a.m. (depending on the hall). Each residence hall has a Security Station staffed by either Community Service Officer(s) and/or Community Advisor(s) at the front entrance. Security Stations are in operation from 9:30 p.m. to 2:00 a.m. on Sundays through Thursdays and 9:30 p.m. to 3:00 a.m. on Fridays and Saturdays. When Security Stations are in operation, residents can only enter through the front entrance of their residence hall, except for Scott Hall, which has three entrances that can be accessed. All other side entrances are posted as a "Fire Exit Only" door and are only to be used during emergencies. Residents and guests must check in at the Security Stations with an approved photo ID and be checked-in by a resident of that hall. If there is any reason to believe that an unauthorized person is in a residence hall, University Police will be contacted as soon as possible with all pertinent information so an officer can follow up.

#### Special Considerations for Athletic Facility Access

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<sup>4</sup> UWS 21, available at [http://docs.legis.wisconsin.gov/code/admin\\_code/uws/21/01](http://docs.legis.wisconsin.gov/code/admin_code/uws/21/01).



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Athletic facilities are typically unlocked from 6:00a.m. to 10:00p.m. during the week but may change with special events, holidays, or weekends. After-hours use is controlled using department issued keys. While open, facilities are not staffed, however, if an emergency arises or attention is needed athletic staff are in their offices from 8:00a.m. until 4:30p.m. Custodial staff are available the entire time the facility is open. The Custodial Superintendent can be reached at 920.424.0488.

During official athletic events, an event manager and event administrator are on duty. During official practices, coach staff are in attendance.

### Special Considerations for Restricted Access Facilities

UW Oshkosh has several areas with restricted access:

- Animal Care Facilities - Oshkosh campus
- Environmental Research Innovation Center - Oshkosh campus
- Urban Dry Digester – Oshkosh campus

### Security Considerations for the Maintenance of Campus Facilities

Security is maintained in facilities on the **Oshkosh campus** through several mechanisms, including limiting the hours of operation, restricting the distribution and copying of keys, use of electronic card access to buildings, providing adequate lighting, Security Stations in the residence halls during evening hours, and providing telephone call boxes and blue light emergency phones at various campus locations for emergency assistance. Specific security mechanisms vary according to the facility. For information concerning the security precautions in place for various types of facilities (e.g., athletic facilities, residence halls, libraries, academic and administrative buildings, recreational facilities, student unions, etc.) contact University Police at 920.424.1212, or the administrator in charge of the use and scheduling of the specific university facility, or the Custodial Superintendent at 920.424.0488.

Security is maintained in facilities on the **Fox Cities campus** through several mechanisms, including limiting the hours of operation, restricting the distribution and copying of keys, use of electronic card access to buildings and providing adequate lighting. A blue light emergency phone is in the main parking lot of the campus. For information concerning the security precautions in place for various types of facilities (e.g., library, academic and administrative buildings, recreational facilities, student unions, Communication Arts Center) contact University Police at 920.424.1212, the campus administrator at 920.832.2643, or the Buildings and Grounds Superintendent at 920.832.2695.

Security is maintained in facilities on the **Fond du Lac campus** through several mechanisms, including limiting the hours of operation, restricting the distribution and copying of keys, use of electronic card access to buildings and providing adequate lighting. Emergency Mobile Blue Light service is accessible through the UWO Mobile App. For information concerning the security precautions in place for various types of facilities (e.g., library, academic and administrative buildings, recreational facilities, university commons) contact University Police at 920.424.1212, the campus administrator at 920.832.2643, or the Buildings and Grounds Superintendent at 920.929.1382.

All UW Oshkosh community members are encouraged to promptly report any security concerns, including concerns about locking mechanisms, lighting, or landscaping to Facilities Management at 920.424.3466 or by submitting a Work Order Request on the Facilities Management website, <https://uwosh.edu/facilities/>.

### Informing Students and Employees of Campus Security Policies and Crime Prevention

The University of Wisconsin Oshkosh provides several ways for students and employees to engage in and respond to campus security procedures and practices. Every fall, all students and employees are provided with a copy of the institution's Annual Security Report. Prospective students and employees are provided with Notice of the Availability of

the Annual Security Report. In addition to this distribution, students and employees are offered several training opportunities to learn more about and engage in safe campus practices.

Creating a safe campus is everyone's responsibility. Prevention is not and cannot be a passive process. It requires a strong commitment by campus administration and the greater community to prioritize public safety and provide services for those in need. This is manifested by adoption of policies and programs to support targeted violence prevention efforts, establishment of threat assessment and management teams, and education to underscore the importance of these processes and to promote acceptance and engagement by all. The following programs are offered to inform the campus community about campus security procedures and practices, to encourage the campus community to be responsible for their safety and the safety of others, and to inform students and employees about crime prevention.

The division of Student Affairs conducts annual Red Zone Programming in the first six weeks of the fall semester. The "red zone" is shorthand for the time at the beginning of the school year when a disproportionate number of campus sexual assaults take place. The following campus departments are engaged in Red Zone prevention and educational programming: Student Health Center, Student Recreation & Wellness, LGBTQIA+ Resource Center, Student Counseling Center, Dean of Students Office, Fraternity and Sorority Life, Reeve Union, the Women's Center, and Residence Life. These offices develop and market programming that targets issues of campus sexual misconduct and interpersonal violence. Participating departments spend time engaging students socially and in scheduled programming on topics related to prohibited conduct, statistics on victimization and predatory actions, personal safety planning, healthy and unhealthy relationships, consent, consent and incapacitation, and bystander intervention.

In addition, University Police encourage officers to have social contacts with students, conducts next day follow-up with students who are incapacitated by alcohol and/or drugs, enforce underage drinking violations, and have increased presence in areas where data shows vulnerability for community members.

The University Police Department runs a Drug Diversion Program along with the Student Counseling Center, the Dean of Students Office, and the Winnebago County District Attorney's Office. First time drug offenders are referred to the District Attorney's Office where they are screened for selection into the program. If they are offered the program, most students are required to attend drug abuse related programming. They must have six months of consecutive clean time with weekly mandatory drug tests and are required to meet with a counselor to ensure they understand the risks of their behaviors. If participants successfully complete all program requirements over a 12-month period, they are not charged for the original crimes.

University Police present campus safety information to all incoming new and transfer students during the Titan Takeoff program and New Student Orientation. University Police cover the following topics: Red Zone Initiative and the negative impacts of alcohol, <https://uwosh.edu/police/redzone/>, the Pedestrian and Traffic Safety Initiative, <https://uwosh.edu/police/pedsafety/>, and how to access and use the UWO Mobile App safety features, <https://uwosh.edu/police/uwomobile/>.

University Police present general sessions which are open to faculty, staff, students, and visitors on how to respond and react to Active Threat situations. This training is taught by Acting Chief of Police, Chris Tarmann, and Dr. Joseph Peterson. Chief Tarmann is a nationally certified Advanced Law Enforcement Rapid Response Team Active Shooter instructor through Texas State University and Dr. Joseph Peterson is a survivor of an incident that occurred at Northern Illinois University in 2008. This program has taught several hundred community members each year how to prepare for and respond to an Active Threat situation.

University Police along with the Chancellor's Office, Environmental Health and Safety, Risk Management, Facilities Management, Grounds Department, and other campus departments, conduct an annual Safety Walk around campus



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with students, faculty, and staff for the purpose of identifying risks and safety issues. Representatives walk and document concerns and issues and then prioritize the information into an action plan.

In addition to formal training procedures, the University also includes safety tips in its Timely Warning announcements and shares safety information on posters distributed throughout campus. Information is available in the Annual Security and Fire Safety Report, and the UWO Mobile App. Community Advisors in Residence Life Halls develop bulletin boards about safety on campus and in the residence halls. All UW Oshkosh community members can attend safety-related training sessions throughout the year. Safety training and content is available on all three campuses on informational kiosks, on bulletin boards in common areas of buildings, on the UWO Mobile App, and via all campus email alerts.

Safety tips sent to students include:

- Call University Police, 920-424-1212, IMMEDIATELY if you see or hear something suspicious. Don't hesitate to dial 911 in an emergency. Tell the University Police your exact location.
- Always keep your possessions in sight. Don't leave computers, books, backpacks, cell phones, or electronics unattended.
- If you leave your office or room, even for a few minutes, lock the door.
- Be alert to potential danger and trust your instincts.
- Walk with friends whenever possible or use the UW Oshkosh Safe-Walk and Safe-Ride programs located on the UWO Mobile App.
- When jogging, walking, or biking alone, stay in well-lit and well-traveled areas.
- Shred documents you discard that contain personal information.

## UW Oshkosh Policies Governing Alcohol and Other Drugs

### Alcohol and Drug Abuse Programs and Interventions

UW Oshkosh provides a variety of programs and interventions for drug and alcohol abuse. Confidential assessment, referral, and short-term counseling services are available for students at the Student Counseling Center, <https://uwosh.edu/counseling/>, 920.424.2061. The Wisconsin Department of Health and Family Services has extensive programs and resources available for people struggling with substance abuse. Please visit their website at <http://www.dhs.wisconsin.gov/substabuse>. Insurance may affect a student's ability to use off-campus alcohol and other drug service providers, and the University urges all students to have adequate insurance coverage.

Information about the University's compliance with the Drug Free Schools and Communities Act, including the descriptions of drug and alcohol abuse education and intervention programs, can be found on the UWO Health Promotion and Wellness website, [AODA Task Force - Health Promotion and Wellness University of Wisconsin Oshkosh \(uwosh.edu\)](https://uwosh.edu/aoda).

### Alcohol Free Programming

Titan Nights are alcohol alternative campus events for students to enjoy healthy and fun planned activities together. In 2021, Titan Nights were held four times in the fall and three times in the spring.

Rec Fest is an annual program at the beginning of the year and is hosted by the Student Rec and Wellness Department. Students are able to learn about the different opportunities offered by SRWC, try out different equipment, join club teams and even learn about the Red Zone initiative. It is an alcohol free alternative for students prior to classes starting.

All programs hosted by any Residence Life Staff member are alcohol free events. Each student staff member is required to host multiple programs per semester.

All programs hosted or co-hosted by the United Students in Residence Halls are alcohol free events.

## UW Oshkosh Alcohol and Drug Policy

The University of Wisconsin System and UW Oshkosh prohibit the unlawful possession, use, distribution, manufacture, sale, or dispensing of alcohol and illegal drugs by students and employees on university property or as part of university activities. It is illegal to procure for, sell, dispense, or give away alcohol to anyone who has not reached the legal drinking age of 21 years, and is unaccompanied by a parent, spouse, or guardian who has reached the legal drinking age of 21 years.<sup>5</sup> It is illegal for anyone who has not reached the legal drinking age of 21 years and is unaccompanied by a parent, spouse, or guardian who has reached the legal drinking age of 21 years to procure, possess, or consume alcoholic beverages, subject to exceptions.<sup>6</sup>

UW Oshkosh and University Police enforce all local, state, and federal laws regarding the possession, use, distribution, manufacture, sale, or dispensing of alcoholic beverages on university property and at university-sponsored activities, including underage drinking. UW Oshkosh and University Police enforce all local, state, and federal laws regarding the possession, use, distribution, manufacture, sale, or dispensing of illegal drugs on university property and university-sponsored activities. UW Oshkosh expects all students, employees, and visitors to comply with all local, state, and federal alcohol and drug laws. Members of the university community who violate local, state, or federal drug and alcohol laws, or who violate UW Oshkosh or UW-System policies regarding drug and alcohol sale, use, or possession may face criminal and/or disciplinary sanctions.

UWS 18.09(1), Wisconsin Administrative Code, prohibits the use or possession of alcoholic beverages on all university premises except as specifically permitted by institutional regulations. UW Oshkosh has developed specific institutional regulations to permit the use and possession of alcoholic beverages by individuals above the minimum legal drinking age. Students and employees who fail to comply with university regulations are subject to disciplinary action. This policy covers the possession or consumption of alcoholic beverages by any individual on university lands, at university facilities, and at all university events. This policy is applicable to events held both on and off campus, including those held in other municipalities, states, and nations.

## UW Oshkosh Alcohol Service and Consumption Policy

### 1. PURPOSE

The purpose of this policy is to provide a process for approving and monitoring alcohol possession and/or consumption for all on campus and sponsored University events.

### 2. RESPONSIBLE OFFICER

UW Oshkosh Police Department - Authorized University Officials – Designees

- Emergency Manager
- Director of Risk Management

### 3. SCOPE

This policy covers the possession or consumption of alcoholic beverages by any individual on university lands and at university-controlled facilities during all University events. This policy is applicable to all events held on campus and University events off campus including those held in other municipalities, states, and nations. This does NOT apply to social gatherings held outside the scope of university employment or its mission.

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<sup>5</sup> Wis. Stat. § 125.07(1)(a)(1).

<sup>6</sup> Wis. Stat. § 125.07(4)(a).

#### 4. BACKGROUND

If alcohol is authorized at a university event, the University and its students and employees have a responsibility to ensure that it is consumed legally and responsibly. Alcohol is a regulated and potentially addictive sedative-hypnotic drug. As such, it is a central nervous system depressant. This depressant effect occurs even with small doses. Because the consumption of alcohol anesthetizes the brain centers for self-control and inhibition, most people experience its effects as a sensation of relaxation. However, it dulls sensation and impairs judgment, vision, memory, and coordination. Because of these effects, the presence, availability, dispensing or consumption of alcoholic beverages at university events should be thoughtfully considered and, when provided, carefully monitored and regulated.

In adopting and administering this Policy, the following statements provide guidance concerning the circumstances in which consumption of alcoholic beverages may be considered appropriate:

1. Alcoholic beverages are considered an amenity for a social or business occasion and never the purpose or focus of the occasion.
2. It will be out of the ordinary to permit service and consumption of alcoholic beverages at an event primarily attended by underage students.
3. The preferred locations for service and consumption of alcoholic beverages are social, recreational, conference and dining facilities.
4. Activities held outside of the scope and mission of the University at an establishment that legally serves alcohol do not require a permit.

#### 5. DEFINITIONS

**Alcoholic Beverage:** Fermented malt beverages and intoxicating liquor. Wisconsin Statute 125.02(1)

**Alcoholic Beverage Sale:** Any transfer of alcoholic beverages for consideration or any transfer without consideration if knowingly made for purposes of evading this regulation relating to the sale of alcoholic beverages or any shift, device, scheme, or transaction for obtaining alcoholic beverages, including the solicitation of orders for, or the sale for future delivery of, alcoholic beverages.

**Authorized University Officials:** Chancellor or appointed designee(s), in addition to the Risk Manager and Emergency Manager, have authorization to approve Alcohol Service -Permits.

**Campus:** Any publicly owned or leased buildings or grounds that compose all or part of UW Oshkosh.

**Employee:** Any person who has an active appointment with UW Oshkosh, paid or unpaid.

**Legal Drinking Age:** Dependent on the location

**Responsible University Employee:** A University employee who has oversight of and advisement to the event.

**Server Responsibility:** To be eligible to serve alcohol, servers must have completed the Wisconsin Responsible Beverage Server Training and maintain insurance to serve alcohol.

**Student:** A person who is registered for study in UW Oshkosh for the current academic period. Wisconsin Statute 36.05(11)

**University Event:** Any gathering, program, or activity that takes place on university lands; or that takes place as part of a university-sponsored activity not located on university lands; or that the University, or a part of the University, is paying for including student segregated fees.

#### 6. POLICY STATEMENT

[UWS 18.09\(1\)](#), Wisconsin Administrative Code prohibits the use or possession of alcoholic beverages on all University premises except as specifically permitted by institutional regulations. UW Oshkosh has developed specific institutional regulations to permit the use and possession of alcoholic beverages at university events. Students and employees who fail to comply with UW Oshkosh regulations are subject to disciplinary action.

## 7. REFERENCES

- [UW System 18.09\(1\)](#)
- [Administrative Code Alcohol](#)
- [University Student Housing](#)
- [Organization Code of Conduct](#)
- [UW Oshkosh Alcohol Service and Consumption Website](#)

## 8. REGULATIONS

Unless expressly permitted in this policy, use or consumption of alcoholic beverages and possession of an open container that contains an alcoholic beverage are prohibited at all university events. This policy is applicable to university events held both on and off campus. This policy extends to all areas of campus, such as but not limited to laboratories, individual and group offices, meeting facilities, and public areas.

If a university event takes place in buildings or locations where the University does not own or lease the space used, this policy extends to the areas and period of time used by representatives of the University for the event. The policy also extends to all modes of transportation used for a university event, where the University controls the arrangements for the transportation used. If the University event is off campus, and a licensed and insured establishment is providing the alcohol, a permit is not required.

## 9. PROCEDURES

- A. Sale of alcoholic beverages without approval by the Authorized University Official is prohibited on all University lands, and in all University owned or leased buildings, except:
  1. Where the sale of alcoholic beverages is a service of Titan Underground in Reeve Union, or
  2. When approved by the Chancellor or their designee.
- B. Considerations to Request Alcohol
  1. Alcohol should be served by the licensed and insured University Food Service Provider; except if:
    - server has taken the Responsible Beverage Server Training and,
    - is appropriately insured to serve alcohol
  2. The legal drinking age for consumption of alcoholic beverages will be adhered to at all University events according to the laws of the jurisdiction where the event takes place.
  3. Individuals must display government-issued identification with a birthdate to any server upon request.
  4. If event attendees are anticipated to include individuals below the legal drinking age, then procedures must be in place to prevent consumption of alcohol by these individuals.
  5. Additional requirements may include, but are not limited to:
    - Servers and/or responsible employees request an ID from any guest before providing them with alcohol or upon event entry.
    - Alcohol is served in a designated and entry-controlled area for attendees at or above the legal drinking age.

- Attendees wear or display a physical indicator (e.g., wristbands) of their authorization to consume alcohol.
- C. Alcohol Authorization Permit Request Form shall be required for alcohol service at all University events, both on and off campus. Alcohol Authorization Permits must be approved by an Authorized University Official.
1. Process to request an Alcohol Authorization Permit Request Form can be found at <https://uwosh.edu/police/alcohol/>.
  2. If an alcohol permit is requested for an event with an attendance estimated to be over 100 attendees, one additional responsible university employee must be present.
  3. Chancellor, Assistant Chancellor for Access Campuses, Vice Chancellors, Deans, and Directors may establish additional requirements or deny alcohol approval for events sponsored by their units and/or held within their areas; however, they cannot reduce restrictions defined within this policy. The alcoholic beverage service approval shall require:
    - a. Completion and approval of the permit form.
    - b. Possession and consumption of alcoholic beverages be limited to the time period and to the room or location specified in the permit.
    - c. Non-alcoholic beverages and food must be made available to attendees.
    - d. Other conditions may be specified by the Chancellor or their designee, or Authorized University Official, to ensure that alcohol consumption, consistent with institutional policy, is appropriate to the occasion.
- D. The Responsible University employee will:
1. Be present at all times during which alcoholic beverages are served or consumed.
  2. Ensure that the conditions of the Permit are observed by all persons in attendance at the event.
  3. Ensure that intoxicated persons do not consume alcoholic beverages
  4. Maintain control of alcoholic beverages at all times to prevent unauthorized consumption and ensure alcoholic beverages are properly secured at the conclusion of the event.
  5. Ensure that individuals below the legal drinking age do not consume alcoholic beverages.
  6. Refrain from the consumption of alcohol during such time as they are serving in this capacity.
  - 7.

-- END OF ALCOHOL POLICY --

### Campus Discipline, University of Wisconsin System Code and Wisconsin State Law

Violation of alcohol and drugs laws or policies by students may lead to the imposition of a disciplinary sanction up to and including suspension or expulsion under s. UWS 17.09, Wis. Adm. Code. Alcohol and drug education programs are often used for alcohol policy violations committed by UW Oshkosh students. For alcohol misuse, students may be referred to appropriate intervention programs to address high risk drinking practices or behavior. For marijuana use, students may be referred to appropriate intervention programs to identify harm reduction strategies. For drug or alcohol violations, students may also be required to meet with a licensed clinician for alcohol or drug abuse assessment and intervention. Student organizations or groups violating alcohol and drug policies, or laws may also be subject to discipline by UW Oshkosh consistent with the student non-academic disciplinary procedures identified in UWS 17. Referral for prosecution under criminal law is also possible. Violations of local, state, or federal laws may result in civil forfeiture or criminal prosecution. In addition, violations of ss. UWS 18.09 and 18.10(1), Wis. Adm. Code may result in additional penalties as allowed under ch. UWS 18, Wis. Adm. Code.

University employees are subject to disciplinary sanctions for violations of university alcohol and drug policies. Sanctions may include termination from employment for violations of local, state, and federal drug and alcohol laws occurring:

- On university property or at the worksite

- During work time or in the course of their employment

Disciplinary sanctions are initiated and imposed in accordance with applicable procedural requirements and work rules, as set forth in:

- Wisconsin statutes
- Administrative rules
- Faculty and academic staff policies
- University staff policies

## UWS 18.09 Alcohol and Drug Prohibitions

### (1) ALCOHOL BEVERAGES.

- (a) The use or possession of alcohol beverages is prohibited on all university premises, except in faculty and staff housing and as permitted by the chief administrative officer, subject to statutory age restrictions. The chief administrative officer may generally permit the use or possession of alcohol beverages by promulgating institutional regulations in consultation with appropriate staff and students, or in specific instances by written permission.
- (b) No person may procure, sell, dispense, or give away alcohol beverages to any person contrary to the provisions of ch. 125, Stats.
- (c) In this subsection, “alcohol beverages” means fermented malt beverages and intoxicating liquors containing 0.5% or more of alcohol by volume.
- (d) Notwithstanding s. UWS 18.14, institutional regulations developed pursuant to this subsection shall be reported to the president of the system for review and approval.

### (2) POSSESSION OF DRUG PARAPHERNALIA.

- (a) No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of ch. 961, Stats.
- (b) In this subsection, the term “drug paraphernalia” has the meaning specified in s. 961.571 (1), Stats.; the term “controlled substance” has the meaning specified in s. 961.01 (4), Stats.; and the term “controlled substance analog” has the meaning specified in s. 961.01 (4m), Stats.
- (c) In determining whether an object is drug paraphernalia under this subsection, the factors listed in s. 961.572, Stats., and all other legally relevant factors, shall be considered.

### (3) POSSESSION OF MARIJUANA.

- (a) No person may intentionally use or possess marijuana on university lands, except when such use or possession is authorized under ch. 961, Stats., or is permitted under s. 961.34, Stats. (b) In this subsection, the term “marijuana” has the meaning specified in s. 961.01 (14), Stats.

## UWS 18.15 Additional Statutory Penalty Provisions Regulating Conduct on University Lands

(1) Controlled substances. The use or possession of controlled substances as defined in s. 961.01 (4), Stats., is prohibited on all university property with the specific exemptions set forth in ch. 961, Stats., and as permitted under s. 961.34, Stats. The penalty provisions of ch. 961, Stats., and chs. UWS 17 and 18 may apply to violations occurring on university lands.

## Wis. Stats. 125.07

Underage drinking by persons under 21 is a civil law violation and is subject to the following legal sanctions under Ch. 125.07(4) Wisconsin State Code:

### 125.07 Underage and intoxicated persons; presence on licensed premises; possession; penalties.

(1) Alcohol beverages; restrictions relating to underage persons.

(a) Restrictions.

1. No person may procure for, sell, dispense, or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.
4. No adult may intentionally encourage or contribute to a violation of sub. (4) (a) or (b).

(b) Penalties.

1. In this paragraph, "violation" means a violation of this subsection or of a local ordinance that strictly conforms to par. (a) if the violation results in an imposition of a forfeiture or a conviction. For purposes of determining previous violations under subd. 2., the 30-month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.
2. A person who commits a violation may be:
  - a. Required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.
  - b. Fined not more than \$500 or imprisoned for not more than 30 days or both if the person has committed a previous violation within 30 months of the violation.
  - c. Fined not more than \$1,000 or imprisoned for not more than 90 days or both if the person has committed 2 previous violations within 30 months of the violation.
  - d. Fined not more than \$10,000 or imprisoned for not more than 9 months or both if the person has committed 3 or more previous violations within 30 months of the violation.
3. A court shall suspend any license or permit issued under this chapter to a person for:
  - a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;
  - b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or
  - c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 other violations.
4. The court shall promptly mail notice of a suspension under this paragraph to the department and to the clerk of each municipality which has issued a license or permit to the person.
5. A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is subject to subd. 3. but is not subject to subd. 2. or s. 125.11.
6. Only one penalty may be imposed under this paragraph for each underage person who is provided alcohol beverages contrary to this section or a local ordinance in conformity with this section.

(4) Underage persons; prohibitions; penalties.

(a) Any underage person who does any of the following is guilty of a violation:

1. Procures or attempts to procure alcohol beverages from a licensee or permittee.
2. Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses, or consumes alcohol beverages on licensed premises.
3. Enters, knowingly attempts to enter or is on licensed premises in violation of sub. (3)(a).
4. Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.



- (b) Except as provided in par. (bm), any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes alcohol beverages is guilty of a violation.
- (bm) An underage person may possess alcohol beverages in the course of employment during his or her working hours if employed by any of the following:
1. A brewer.
  2. A fermented malt beverages wholesaler.
  3. A permittee other than a Class "B" or "Class B" permittee.
  4. A facility for the production of alcohol fuel.
  5. A retail licensee or permittee under the conditions specified in s. 125.32 (2) or 125.68 (2) or for delivery of unopened containers to the home or vehicle of a customer.
  6. A campus, if the underage person is at least 18 years of age and is under the immediate supervision of a person who has attained the legal drinking age.
- (bs) Any person violating par. (a) is subject to the following penalties:
1. For a first violation, a forfeiture of not less than \$250 nor more than \$500, suspension of the person's operating privilege as provided under s. 343.30 (6)(b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.
  2. For a violation committed within 12 months of one previous violation, either a forfeiture of not less than \$300 nor more than \$500, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.
  3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$500 nor more than \$750, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.
  4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$750 nor more than \$1,000, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.
- (c) Any person violating par. (b) is subject to the following penalties:
1. For a first violation, a forfeiture of not less than \$100 nor more than \$200, suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.
  2. For a violation committed within 12 months of one previous violation, either a forfeiture of not less than \$200 nor more than \$300, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.
  3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$300 nor more than \$500, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.



4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$500 nor more than \$1,000, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30(6)(b)3. (cd) For purposes of par. (bs) or (c), all violations arising out of the same incident or occurrence shall be counted as a single violation.

### State of Wisconsin Uniform Controlled Substances Act

The Uniform Controlled Substances Act, Chapter 961 of the Wisconsin Statutes, regulates controlled substances and outlines specific penalties for the violation of the regulations. A first-time conviction for possession of a controlled substance can result in a sentence of up to one year in prison and a fine of up to \$5,000. Sec.961.41(3g), Stats. A person convicted of manufacturing a controlled substance, delivering a controlled substance, or possessing a controlled substance with an intent to manufacture or deliver, can be imprisoned for up to 30 years and fined up to \$1,000, 000. Secs. 961.41(1) and (1m), Stats. Penalties vary according to the type of drug involved, the amount of drug confiscated, the number of previous convictions, and the presence of any aggravating factors. The distribution of a controlled substance to a minor can lead to the doubling of an authorized sentence term. Sec. 961.46, Stats.

### Amnesty for Underage Alcohol Penalties for Certain Persons - 2015 Wisconsin Act 279

An underage person may not be issued a citation for, or convicted of, a violation of Wis. Stat. s.125.07(4)(a) or (b) if all the following apply:

- The underage person is a crime victim or bystander and either the crime victim or the bystander requested emergency assistance, by dialing the telephone number "911" or by other means, in connection with the alleged crime or the underage person encountered a law enforcement officer at a medical facility at which the crime victim received treatment in connection with the alleged crime.<sup>7</sup>
- The underage person remains at the scene until emergency assistance arrives and thereafter cooperates with providers of emergency assistance, including furnishing any requested information, unless the underage person lacks capacity to cooperate when emergency medical assistance arrives. If the underage person encounters a law enforcement officer at a medical facility, the underage person cooperates with the officer and furnishes any requested information, unless the underage person lacks capacity to cooperate with the officer.<sup>8</sup>

However, this amnesty does not apply to an underage person who requests emergency assistance, by dialing the telephone number "911" or by other means, with an intention to claim the protections and knowing that the situation that he or she reports does not exist.<sup>9</sup>

If the underage person is a student at a UW System school, the board or an institution or college campus may not impose any of the following disciplinary sanctions against a student for the student's violation of s. 125.07 (4) (a) or (b), if the student is exempt from issuance of a citation for, or conviction of, the violation under the amnesty law<sup>10</sup>:

- Removal of a course in progress
- Enrollment restrictions on a course or program
- Suspension or expulsion

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<sup>7</sup> Wis. Stat. § 125.07(5)(b)1.

<sup>8</sup> Wis. Stat. § 125.07(5)(b)2.

<sup>9</sup> Wis. Stat. § 125.07(5)(c)

<sup>10</sup> Wis. Stat. § 36.35(4)

- Exclusion from student housing

## Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence, Sexual Exploitation, & Stalking

UW Oshkosh does not discriminate on the basis of sex, gender identity, gender expression, and/or sexual orientation in its educational program and does not tolerate any form of sexual misconduct including, sexual harassment, sexual assault, dating or domestic violence, sexual exploitation, and stalking. Sexual misconduct is a form of sex discrimination and can have the effect of denying individuals equal access to and benefit from UW Oshkosh programs and activities.

UW Oshkosh prohibits sexual assault, domestic violence, dating violence, and stalking as they are defined in the Clery Act, Violence Against Women Act, other related federal law, and Wisconsin state law. UW Oshkosh issues this statement of policy to inform the community of our comprehensive plan to address sexual misconduct in all its forms whether on or off campus.

### Definitions

For the purposes of the Clery Act and under Wisconsin law, sexual assault, domestic violence, dating violence, and stalking, and consent are defined as the following:

#### *Consent*

Consent is defined in the state of Wisconsin as words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. The following persons are presumed incapable of consent, but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

- A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.<sup>11</sup>
- A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.<sup>12</sup>

#### *Dating Violence*

According to the Clery Act, “dating violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.<sup>13</sup>

In the state of Wisconsin, a dating relationship is further defined as a romantic or intimate social relationship between two adult individuals but “dating relationship” does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context. A court shall determine if a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship.<sup>14</sup>

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<sup>11</sup> Wis. Stat. § 940.225(4)(b)

<sup>12</sup> Wis. Stat. § 940.225(4)(c).

<sup>13</sup> Clery Act, 34 CFR 668.46

<sup>14</sup> Wis. Stat. § 813.12(1)(ag).

### *Domestic Violence*

According to the Clery Act, “domestic violence” is a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.<sup>15</sup>

### *Domestic Abuse; Domestic Abuse Restraining Orders and Injunctions<sup>16</sup>*

In the state of Wisconsin, domestic abuse means any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver’s care, by an adult against his or her adult former spouse, by an adult against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury, or illness.
2. Intentional impairment of physical condition.
3. A violation of s. 940.225 (1), (2) or (3).
4. A violation of s. 940.32.
5. A violation of s. 943.01, involving property that belongs to the individual.
6. A threat to engage in the conduct under subd. 1., 2., 3., 4., or 5.<sup>17</sup>

### *Domestic Abuse Incidents; Arrest and Prosecution<sup>18</sup>*

“Domestic abuse” means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury, or illness.
2. Intentional impairment of physical condition.
3. A violation of s.940.225(1) [first degree sexual assault], (2) [second degree sexual assault] or (3) third degree sexual assault].
4. A physical act that may cause the other person to fear imminent in the conduct described in 1, 2 or 3.

### *Sex Offenses*

According to the Clery Act, “sex offenses” are any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.<sup>19</sup>

### *Fondling*

According to the Clery Act, “fondling” is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving

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<sup>15</sup> Clery Act, 34 CFR 668.46

<sup>16</sup> Wis. Stats. § 813.12(1)

<sup>17</sup> Wis. Stat. § 813.12(1)(am).

<sup>18</sup> Wis. Stat. § 968.075

<sup>19</sup> Clery Act, 34 CFR 668.46

consent because of his/her age or because of his/her temporary or permanent mental incapacity.<sup>20</sup>

### *Incest*

According to the Clery Act, “incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.<sup>21</sup>

In the state of Wisconsin, people who are nearer of kin than 2<sup>nd</sup> cousins may not marry, except that marriage may be contracted between first cousins where the female has attained the age of 55 years or where either party, at the time of the application for a marriage license, submits an affidavit signed by a physician stating that either party is permanently sterile.<sup>22</sup>

### *Rape*

According to the Clery Act, “rape” is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.<sup>23</sup>

### *Sexual Assault*

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program.<sup>24</sup>

In the state of Wisconsin, sexual assault is differentiated by degree, with the following definitions:

- (1) First degree sexual assault. Whoever does any of the following is guilty of a Class B felony:
  - (a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.
  - (b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat
  - (c) of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
  - (d) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
- (2) Second degree sexual assault. Whoever does any of the following is guilty of a Class C felony:
  - (a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
  - (b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease, or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
  - (c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.
  - (cm) Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
  - (d) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.

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<sup>20</sup> Crime Definitions in Accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program, 34 CFR Appendix A to Subpart D of Part 668

<sup>21</sup> Crime Definitions in Accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program, 34 CFR Appendix A to Subpart D of Part 668

<sup>22</sup> Wis. Stat. § 765.03

<sup>23</sup> Crime Definitions in Accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program, 34 CFR Appendix A to Subpart D of Part 668

<sup>24</sup> Crime Definitions in Accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program, 34 CFR Appendix A to Subpart D of Part 668

- (f) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.
  - (g) Is an employee of a facility or program under s. 940.295 (2) (b), (c), (h) or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.
  - (h) Has sexual contact or sexual intercourse with an individual who is confined in a correctional institution if the actor is a correctional staff member. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.
  - (i) Has sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if the actor is a probation, parole, or extended supervision agent who supervises the individual, either directly or through a subordinate, in his or her capacity as a probation, parole, or extended supervision agent or who has influenced or has attempted to influence another probation, parole, or extended supervision agent's supervision of the individual. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.
  - (j) Is a licensee, employee, or nonclient resident of an entity, as defined in s. 48.685 (1) (b) or 50.065 (1) (c) and has sexual contact or sexual intercourse with a client of the entity.
  - (k) Is a law enforcement officer and has sexual contact or sexual intercourse with any person who is detained by any law enforcement officer, as provided under s. 968.24, or is in the custody of any law enforcement officer. This paragraph applies whether the custody is lawful or unlawful and whether the detainment or custody is actual or constructive. Consent is not an issue in an action under this paragraph.
- (3) Third degree sexual assault.
- (a) Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class G felony.
  - (b) Whoever has sexual contact in the manner described in sub. (5) (b) 2. or 3. with a person without the consent of that person is guilty of a Class G felony.
- (3m) Fourth degree sexual assault. Except as provided in sub. (3), whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.<sup>25</sup>

### *Sexual Assault of a Child*

Any person who has sexual contact or sexual intercourse with a child who has not attained the age of 13 years and causes great bodily harm is guilty of a Class A felony.<sup>26</sup>

Any person who has sexual intercourse with a child who has not attained the age of 12 years is guilty of a Class B felony.<sup>27</sup>

Any person who has sexual intercourse with a child who has not attained the age of 16 years by use of threat of force or violence is guilty of a Class B felony.<sup>28</sup>

Any person who has sexual contact with a child who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony if the person is at least 18 years of age when the sexual contact occurred.<sup>29</sup>

Any person who has sexual contact or sexual intercourse with a person who has not attained the age of 13 years is guilty of a Class B felony.<sup>30</sup>

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<sup>25</sup> Wis. Stat. § 940.225(1-3m).

<sup>26</sup> Wis. Stat. § 948.02(1)(am)

<sup>27</sup> Wis. Stat. § 948.02(1)(b)

<sup>28</sup> Wis. Stat. § 948.02(1)(c)

<sup>29</sup> Wis. Stat. § 948.02(1)(d)

<sup>30</sup> Wis. Stat. § 948.02(1)(e)

Any person who has sexual contact or sexual intercourse with a child who has not attained the age of 16 years is guilty of a Class C felony.<sup>31</sup>

### *Underage Sexual Activity*

In the state of Wisconsin, any person who has sexual contact with a child who has attained the age of 15 years but has not attained the age of 16 years, or any person who has sexual intercourse with a child who has attained the age of 15 years, is guilty of a Class A misdemeanor if the person has not attained the age of 19 years when the violation occurs.<sup>32</sup> The statute does not apply to the child's spouse.

### *Statutory Rape*

Statutory rape is sexual intercourse with a person who is under the statutory age of consent.<sup>33</sup> In the state of Wisconsin, the statutory age of consent for sexual intercourse is 18 years of age.<sup>34</sup> Any person who has sexual intercourse with a child who is not that person's spouse and who has attained the age of 16 years is guilty of a Class A misdemeanor.<sup>35</sup>

### *Stalking*

According to the Clery Act, stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.<sup>36</sup>

In the state of Wisconsin, stalking means a series of two or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following<sup>37</sup>:

1. Maintaining a visual or physical proximity to the victim.
2. Approaching or confronting the victim.
3. Appearing at the victim's workplace or contacting the victim's employer or coworkers.
4. Appearing at the victim's home or contacting the victim's neighbors.
5. Entering property owned, leased, or occupied by the victim.
6. Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.
- 6m. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.
7. Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim.
8. Placing an object on or delivering an object to property owned, leased, or occupied by the victim.

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<sup>31</sup> Wis. Stat. § 948.02(2)

<sup>32</sup> Wis. Stat. § 948.093

<sup>33</sup> Crime Definitions in Accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program, 34 CFR Appendix A to Subpart D of Part 668

<sup>34</sup> Wis. Stat. § 948.09

<sup>35</sup> Wis. Stat. § 948.09

<sup>36</sup> Violence Against Women Act, 34 CFR 668.46(c)(1)(iv)

<sup>37</sup> Wis. Stat. § 940.32

9. Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.
10. Causing a person to engage in any of the acts described in subds. 1. to 9.<sup>38</sup>

*Sexual Harassment; UWS Ch 4 and 11*

"Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following<sup>39</sup>:

- (a) An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct.
- (b) Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using any of the following legal "reasonable person" standards:
  1. The conduct is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity.
  2. The conduct is so severe, pervasive, or objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in an institution's education program or activity, or creates an intimidating, hostile, or offensive academic, working, or program or activity related environment.

Sexual Harassment as defined in UWS Ch 4 and 11 is not considered a Clery Crime but is considered sexual misconduct.

*Sexual Harassment; UWS Ch 17*

SEXUAL HARASSMENT. Conduct on the basis of sex that satisfies any of the following:<sup>40</sup>:

- (a) Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in an education program or activity of the university that when using the legal "reasonable person" standard, is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity.
- (b) Unwelcome conduct of a sexual nature directed towards an individual that, when using the legal "reasonable person" standard, is so severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in a university sponsored or supported activity.

Sexual Harassment as defined in UWS 17 is not considered a Clery Crime but is considered sexual misconduct.

*Sexual Exploitation; UWS Ch 4 and 11*

Sexual exploitation means attempting, taking, or threatening to take, nonconsensual sexual advantage of another person. Examples include<sup>41</sup>:

- (a) Engaging in the following conduct without the knowledge and consent of all participants:
  1. Observing, recording, or photographing private body parts or sexual activity of the complainant.

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<sup>38</sup> Wis. Stat. § 940.32(1)(a).

<sup>39</sup> UWS Ch 4.015(10) and Ch. 11.015(10), Wisconsin Admin. Code.

<sup>40</sup> UWS Ch. 17.151(1)(a)-(b), Wisconsin Admin. Code.

<sup>41</sup> UWS, Wisconsin Admin. Code.



2. Allowing another person to observe, record, or photograph sexual activity or private body parts of the complainant.
  3. Otherwise distributing recordings, photographs, or other images of the sexual activity or private body parts of the complainant.
- (b) Masturbating, touching one's genitals, or exposing one's genitals in the complainant's presence without the consent of the complainant, or inducing the complainant to do the same.
- (c) Dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual activity.
- (d) Inducing incapacitation through deception for the purpose of making the complainant vulnerable to non-consensual sexual activity.
- (e) Coercing the complainant to engage in sexual activity for money or anything of value.
- (f) Threatening distribution of any of the following, to coerce someone into sexual activity or providing money or anything of value:
1. Photos, videos, or recordings depicting private body parts or sexual activity of the complainant.
  2. Other information of a sexual nature involving the complainant, including sexual history or sexual orientation.

Sexual Exploitation as defined in UWS Ch 4 and 11 is not considered a Clery Crime but is considered sexual misconduct.

*Sexual Exploitation; UWS Ch 17*

Sexual Exploitation. Attempting, taking, or threatening to take nonconsensual sexual advantage of another person.

Examples include<sup>42</sup>:

- (a) Engaging in any of the following conduct without the knowledge and consent of all participants:
1. Observing, recording, or photographing private body parts or sexual activity of one or more complainants.
  2. Allowing another person to observe, record, or photograph sexual activity or private body parts of one or more complainants.
  3. Otherwise distributing recordings, photographs, or other images of the same of one or more complainants.
- (b) Masturbating, touching one's genitals, or exposing one's genitals in complainant's presence without the consent of the complainant, or inducing another person to do the same.
- (c) Dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual activity.
- (d) Inducing incapacitation through deception for the purpose of making another person vulnerable to non-consensual sexual activity.
- (e) Coercing the complainant to engage in sexual activity for money or anything of value.
- (f) Threatening distribution of any of the following, to coerce the complainant into sexual activity or providing money or anything of value:

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<sup>42</sup> UWS Ch. 17.151(6), Wisconsin Admin. Code.



1. Photos, videos, or recordings depicting private body parts or sexual activity of one or more persons.
2. Other information of a sexual nature, including sexual history or sexual orientation.

Sexual Exploitation as defined in UWS 17 is not considered a Clery Crime but is considered sexual misconduct.

### Educational Programs and Campaigns

As an institution, UW Oshkosh provides, and in some cases mandates, comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to prevent dating and domestic violence, sexual assault, and stalking. These programs, initiatives, strategies, and campaigns are culturally relevant, inclusive of diverse communities and identities, sustainable, and responsive to community needs.

UW Oshkosh is committed to providing prevention and awareness programming for its students and employees. Prevention and awareness programming is experiential or educational programming intended to prevent sexual harassment, dating and domestic violence, sexual assault, sexual exploitation, and stalking before they occur. Programming includes educating the campus community about prohibited misconduct, healthy behaviors and relationships, healthy and safe sexuality, bystander intervention techniques, and offering non-alcohol social and wellness activities and events. Awareness programs are defined as community wide or audience-specific programming, initiatives and strategies that increase audience knowledge, and share information and resources to prevent violence, promote safety, and reduce perpetration.<sup>43</sup>

There are a variety of offices on campus that educate others on the topics of sexual misconduct and safety. The Office of Compliance and Human Resources works with campus departments to ensure that employees receive adequate training on the topic of sexual misconduct. All new employees, including student employees, are mandated to take the UW System training on sexual harassment and sexual misconduct upon hiring, and then again, every three years. All UW Oshkosh employees are also required to take an annual Responsible Authority training, which provides a refresher on Title IX and Clery reporting requirements. UW Oshkosh maintains a Title IX website with prevention and education resources for students and employees. UW Oshkosh Sexual Misconduct Policy GEN 1.2(5) designates all UWO employees, except for the university designated confidential resources as *Responsible Authorities* who must bring forward crime and/or sexual misconduct disclosures required by policy and law. Any campus department can request further training on sexual misconduct prevention or response for their employees or students through the Title IX Coordinator, 920.424.0835, or University Police, 920.424.1212.

### Ongoing Prevention and Awareness Programs

UW Oshkosh has several primary prevention programs for students and employees, including required online training for all incoming students through a UW system sexual assault prevention training program called, EVERFI. EVERFI is a culturally relevant and diversity-inclusive training for students that promotes the awareness and prevention of sexual harassment, domestic and dating violence, sexual assault, sexual exploitation, and stalking. This training is delivered through students' university email. Failure to complete the training results in an academic hold being placed on the student's account, preventing them from registering for future courses until completed.

Residence Life discusses sexual assault reporting and support resources with all students living in the residence halls at fall hall meetings. Additionally, they conduct annual training with professional and student staff on managing sexual misconduct disclosures by students, mandatory reporting, and referring students to campus and community resources for support.

All UWO student-athletes and coaches involved in Division III Athletics are required to complete an annual NCAA training which covers, Title IX and sexual misconduct, definitions of sexual misconduct, consent, alcohol and drug use, reporting,

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<sup>43</sup> 34 CFR 668.46(j)

hazing, cultural awareness, and active bystander support. This course is developed using the NCAA Toolkit and other related resources and delivered to students in the on-line learning platform, Canvas.

UW Oshkosh provides information about communitywide and audience-specific resources and programming in addition to the programs mentioned above. There are many community partners who address sexual misconduct, information and support for historically marginalized populations, and/or provide direct support to victims/survivors of sexual and interpersonal violence. Some of the community partners who offer on-going prevention, education and support programming are the Christine Ann Center for Domestic Abuse, Diverse and Resilient LGBTQIA+ Support, Reach Counseling Services, ASTOP and the Solutions Center. Information about additional community resources for all three UWO campus locations can be found on the UWO Title IX website Support page, <https://uwosh.edu/titleix/support/>.

### Prevention and Awareness Programming

To ensure UWO remains a safe and welcoming place for all students pursuing their personal, professional, and academic goals, UWO employs a coordinated and collaborative system of initiatives, programs, and services that collectively protect educational access, advance gender equity, and prevent and educate about sexual misconduct and interpersonal violence. The Student Health Center has a full-time Prevention and Wellness Coordinator position who is responsible for providing and coordinating ongoing prevention education efforts. The Prevention and Wellness Coordinator helps coordinate student focused prevention and educational programming with Student Affairs, University Affairs, and Academic Affairs staff and faculty.

UW Oshkosh continuously works to prevent and educate on sexual misconduct through several institutional and student-led programming and events including:

#### **New Student Orientation**

During the period of advisement and registration, various campus offices provide incoming students with information regarding health and safety on campus. Parents and students are directed to various university resources including the UWO Guide, the Title IX website, and other university webpages where further information can be found relating to UWO policies, state laws, and federal regulations regarding sexual harassment, sexual assault, domestic and dating violence, and stalking. These university resources also list available campus and community support resources available to students. New students, including transfer and graduate students, are sent a link to the required sexual misconduct training, EVERFI, in their first semester. In 2021, the UWO Prevention Educator provided virtual and in-person presentations on healthy relationships, consent and communication, national statistics on the prevalence of sexual violence, and information about Title IX confidential and non-confidential resources on and off campus. The Fox Cities and Fond du Lac campuses provided on-line modules (Comevo) to students during orientation/registration that contained information about the mandatory sexual misconduct training (EVERFI).

#### **Student and Greek Life Programming**

Students participating in Greek Life at UW Oshkosh were provided with Fraternity and Sorority Risk Management training which includes policies regarding alcohol use and abuse, safety measures, and sanctions for multiple violations within a chapter.

#### **Red Zone Programming Fall 2021**

The “red zone” is shorthand for the first six weeks at the beginning of the school year when a disproportionate number of campus sexual assaults take place. Red Zone programming is focused on awareness of sexual misconduct and

interpersonal violence, unhealthy and healthy relationship behaviors, and knowledge of campus and community resources to support victims/survivors. At UW Oshkosh, Red Zone programming consists of 6 weeks of comprehensive Student Affairs activities, events, and presentations.

Red Zone Programming that occurred in 2021 includes: Ask an Advocate Sessions-Christine Ann Center Domestic Abuse Services/Harbor House/Diverse & Resilient/Solutions Center; Bystander Intervention training sessions; Chancellor and Chief Safety Tour-Oshkosh Campus; Fostering Healthy Relationships Presentation; Healthy Relationships and Technology Workshop, Wear Red Wednesdays, International Pronouns Day; Veterans Week; Myth or Fact Mondays on social media platforms; Student T-SAFE training; Transgender Remembrance Day; National Coming Out Day; Take Back the Night event; Sex-Positive Crafternoon; Engaging Men Poster Series; Manliness Myths; and Voices of Titan Men: Reimagining Masculinity Panel Discussion.

### **Sexual Assault Awareness Month (SAAM) Programming Spring 2021**

In 2021, UWO conducted many SAAM events to increase sexual assault awareness on campus, to provide training and educational opportunities for students to develop skills to be active bystanders, to expand student understanding of healthy relationships, and to provide space for victims/survivors to explore healing opportunities.

SAAM programming that occurred in 2021 includes: Victim/Survivor Supply Drive; Sexual Assault Awareness Month Bingo; Bystander Intervention 2.0 Conflict Resolution training; The Bystander Imperative: Moving Beyond Midwest Nice presentation; Ask an Advocate-Sexual Assault Crisis Center Fox Cities/ASTOP/Reach Counseling; The Gray Zone: A Conversation on Consent, Empowerment & Societal Pressures; Stand Up Against Street Harassment Public training; How to Support a Victim/Survivor Facebook event; SAAM Crafternoon; 12<sup>th</sup> Annual LGBTQ+ March; Criminal Justice Panel Discussion; Loud 'n Unchained: Healing through Poetry event; Overview of Forensic Nursing at ThedaCare; Mo-Men-Tum: Changing the Landscape of Modern Masculinity; and a UWO Title IX Open Forum.

### **Other Campus Programs**

#### **Trauma Informed Care Training for Students**

Help the participants realize the impact of trauma in a university setting and recognize the behaviors that campus community members may display in response to the impact of trauma and violence against women.

#### **Sexual Health 101: What your high school didn't teach you**

This event will answer every, and all questions that were left undiscovered during your high school health classes. Also, educate students further on the Red Zone - which is the first 6 weeks of school where it is believed that there are more sexual assaults on U.S college campuses during this time than any other time during the school year. I hope to have my residents more informed about sexual health, and potentially debunk some theories they may have in their head. Also, to remind them that their body is theirs, and no one else's, and to protect themselves when out.

#### **Kids in Crisis- You're Not Alone Documentary**

The University of Wisconsin Oshkosh will host of showing of Kids in Crisis: You're Not Alone, a documentary film about mental health challenges faced by today's youth with a direct connection to the university. Hosted in Reeve Union.

#### **Sex Ed Bingo**

This will be a sexual education bingo night. Along with this we will be sending out a form for residents to submit questions! This will be private and no names will be given. Partnered with the Campus Victim Advocate to speak about informed consent and what it looks like.

#### **Safe Sex and Sundaes**

The idea of the program is to talk about safe sex practices and consent and to allow students to anonymously ask questions in regard to consent and safe sex practices. I would like to bring a box of contraceptive options for people to

see. Examples include an IUD, ring, implant, etc. which is being worked out with Julie Kahrs. Ice cream was a good incentive to learn and made for a comfortable environment. We worked together on advertising, planning, and setup.

#### Halloween Booze

The program is a passive program that informs residents about drinking and will tie it to Halloween. We will get bags of candy and print out pamphlets containing educational information about drinking. We aim to make 75 bags and hand them out during security station. Halloween is often a time of heavy drinking and parties. We feel that information regarding safe drinking will help residents be safe and make informed decisions.

#### Sex & Kinks

We will be address various topics from consent to kinks in a fun comfortable way. We will be using resources from Julie Kahrs and other places from campus. Staff will be going through a power point and we will have a section for questions. We will be also answering from an anonymous survey we will send out before the program. Supplies will be provided from the Titan Well(condoms, Band-Aids, lube, tampons and pads)

#### Consent and Fries

Student staff interning at the Women's Center are doing this event in collaboration with them for Sexual Assault Awareness Month. Will discuss about healthy sex, consent, communication. FRIES is an acronym for the sort of 'rules' about consent; Freely given, Reversible, Informed, Enthusiastic, Specific.

#### Nachos Narcan and Nursing

A representative from the Winnebago health department presented on what Narcan is, how to recognize and overdose, and how to use it. Members from the nursing program were there to ask any potential candidates questions about the program as well.

#### Alcohol Awareness

A quick 5-10 minute presentation on alcohol abuse and alcohol awareness month. Also had a kahoot for anyone who wishes to play. In addition to the informative kahoot and presentation, there was coloring pages, crosswords, etc. for anyone who wants to partake.

#### Breakfast and Wellness

Students will be given breakfast while an advocate from the counseling center will discuss sexual wellness. April is Sexual Assault awareness month and this program will help make students aware of campus resources when it comes to sexual health.

#### Level Up! Sexual Harassment and Gendered Violence in the Gaming Industry

This program is designed to help students learn to be safe in the virtual world. With this particular event, women and minority gamers can build a community while learning to be safe online.

#### Sex Trivia

'Don't have sex because you will get pregnant and die!' Remember that scene from Mean Girls? Was your sex education in high school similar to what was shown in the movie? Join us to ask questions and learn what you really need to know about sexual health!

#### Keep up with your safety Kahoot

Give a safe sex topic Kahoot- goal is to educate on and promote safe sex..

### All Campus Communications

In addition to programming, emails were sent by the Title IX Coordinator to all students and employees at all three campus locations at the beginning of the fall 2021 semester informing them about university sexual misconduct policy and Title IX, reporting options, and campus and community support resources. The Interim Vice Chancellor of Student Affairs sent an all-campus email to students on all three campuses in spring of 2021 informing them about reporting sexual misconduct and about support resources on-campus.

### Bystander Intervention Programs and Risk Reduction

UW Oshkosh is committed to providing bystander intervention strategies for students and employees through voluntary training opportunities for students, faculty, and staff. All employees and students are encouraged to engage as proactive bystanders, learn to identify the signs of abusive behavior and/or relationships, and engage in protective behaviors and risk reduction techniques.

The UW Oshkosh Bystander intervention training is designed to provide students and employees the opportunity to learn and practice the skills of recognizing and responding to sexual harassment, sexual misconduct, or interpersonal violence in efforts to improve both self-efficacy and to prevent sexual violence in the campus community. This program has the impact of helping students and employees understand what behaviors constitute sexual violence and to practice how to respond in difficult and stressful situations. Nine Bystander Intervention trainings were offered in 2021. More information on Bystander Intervention training can be found on this link, <https://uwosh.edu/bystander/>.

### Bystander Intervention Tips

Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of sexual harassment, dating and domestic violence, sexual assault, sexual exploitation, and/or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. Many people assume that sexual harassment, sexual assault, domestic and dating violence, sexual exploitation, and stalking only affect the crime victim, when in fact entire families, friend groups, and communities are hurt. If you see something, say something.

- Be active in supporting a safe and respectful community. If you see others engaging in disrespectful or inappropriate actions, speak up and get involved, or contact someone to assist.
- Listen for sexist jokes and sexualized language. You don't have to laugh or participate. Tell the speaker it is inappropriate, and you don't want to hear it.
- You can intervene even after an assault. Learn what options sexual assault victims have available to them on and off campus and be supportive of their choices.
- If you're a bystander and see someone behaving in a way that seems suspicious, be direct and step in and do something about it, such as distracting their attention away from a potential victim. If you don't feel comfortable or safe confronting them, call the University Police.
- If you sense something is wrong, don't ignore it. You can help by getting involved. Check-in and ask, "Hey, do you know this person?" or, "Are you OK?" or, "Can I call a friend to walk you home?"
- It can feel awkward to step in and say something if you notice harmful behavior, but often all it takes is a brief introduction. Let the potential perpetrator know their actions are noticeable with a simple, "Hey, do I know you? Aren't you in my Tuesday Chemistry section?"
- When you go out, consider going out as part of a group. People tend to step in and intervene in situations when they have friends who will back them up.
- If you see someone who looks to be in immediate danger, call 911.

### Protective Behaviors and Risk Reduction

Risk reduction means options designed to decrease perpetration and bystander inaction and to increase empowerment for victims to promote safety and to help individuals and communities address conditions that facilitate violence. Here are some helpful tips:

- Have healthy, open, and ongoing conversations with your partner or potential partner about sex and sexual contact. Talk about your boundaries and what behaviors you both feel comfortable and uncomfortable, engaging in.
- The next time you hear yourself talking about gender or sex in a derogatory way, stop. Speak up when you hear others talk this way—no matter their gender.
- Read or listen to the personal story of a survivor of violence.
- Make sure you have enthusiastic, affirmative, and ongoing consent from your partner. Consent is a clear and freely given yes, not the absence of a no.
- Consent to one act does not mean consent to other acts. Communicate and be responsive. You must continually get consent for sex. If someone seems not okay with what's happening, it is your responsibility to check in.
- Understand your partner's limits and communicate your own limits clearly when you have sex. Don't engage in sexual activities without affirmative consent from your partner.
- Sexual assault is most often perpetrated by someone the victim knows such as a date or acquaintance and not by a stranger.
- People who are incapacitated by alcohol or drugs cannot give consent. Signs of incapacitation may include—but are not limited to:
  - throwing up
  - slurring words
  - stumbling
  - not being able to remember conversations
- Do not pressure others to drink or use drugs and be alert to people pressuring you or others to use.
- Alcohol and drugs are often used to create vulnerability to sexual assault. Studies of sexual assault incidents show a high correlation between sexual assault perpetration, victimization, and drug/alcohol usage.
- Some sex offenders target people by using alcohol as a weapon. Get your own drinks; don't let someone continually fill your cup. Don't drink from unattended cups.
- Use and encourage others to have a companion or a safe means of getting home. Use UWO's Safe-walk or Safe-ride programs by calling University Police, 920.424.1212.
- Tell someone if an authority figure pressures you to engage in sexual activity.
- Understand that crime victims are never responsible for the behavior of perpetrators.
- Tell someone if you've been sexually assaulted or victimized – there are resources available to help.

### Signs of an Abusive Dating Partner

An abusive dating partner may include someone who:

- Calls you names, insults you or continually criticizes you
- Does not trust you and acts possessive or jealous
- Tries to isolate you from family or friends
- Takes your possessions to punish you and refuses to return them
- Monitors where you go, who you call, and who you spend time with
- Controls the finances or refuses to share money
- Punishes you by withholding affection
- Expects you to ask permission from them to do what you want to do
- Threatens to hurt you, your family, your pets, or your belongings
- Threatens and/or uses a weapon against you



- Uses force, coercion, or manipulation for sex or sexual acts
- Accuses you of cheating or is often jealous of your relationships with others
- Traps you in your apartment or residence hall room and keeps you from leaving
- Uses social media messages, Facebook messages, tweets, text messages, and/or calls you obsessively to find out where you are and what you are doing

### Procedures for Reporting Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Sexual Exploitation, or Stalking

Offense	Contact	Location	Phone
<b>Criminal Reporting</b>	<b>University Police</b>	Radford Hall, Lower Level 777 Algoma Blvd. Oshkosh campus	911 in emergencies or 920.424.1212 for non-emergencies.
<b>University Reporting</b>	<b>Title IX Coordinator</b>	Dempsey Hall, 328 800 Algoma Blvd. Oshkosh campus	920.424.0835 <a href="mailto:titleix@uwosh.edu">titleix@uwosh.edu</a> Title IX Reporting Form, <a href="https://uwosh.edu/titleix/report-it/">https://uwosh.edu/titleix/report-it/</a>

UW Oshkosh encourages victims/survivors of sexual misconduct (sexual harassment, sexual assault, domestic violence, dating violence, sexual exploitation, and/or stalking) to report an incident to University Police at 920.424.1212 (or 911 in emergencies), and/or to the University through the offices listed above. University Police and University reporting processes are separate and can run parallel to each other when a victim/survivor reports to both entities. University reports do not go to law enforcement, but law enforcement reports are shared with the University Title IX Coordinator per federal law. Following a report of sexual misconduct to the University, the University will provide an opportunity to meet with the Title IX Coordinator to discuss rights, options, and support as well as provide written explanation of the student's or employee's rights and options. All victims/survivors have the right to be accompanied by a person of their choice to this meeting and to any additional meetings related to university grievance processes.

Victims/survivors have the right to notify other law enforcement authorities with jurisdiction in and around any UW Oshkosh campus. If the crime occurred on university property, University Police have jurisdiction. If the crime occurred off campus, victims/survivors can notify the appropriate local law enforcement agency with jurisdiction at the location of the crime. University Police will assist victims/survivors in identifying the correct law enforcement agency and will assist them in reporting a crime to that agency. Victims/survivors have the right to be assisted by campus authorities in notifying law enforcement if they want assistance. UW Oshkosh will comply with a request for assistance in notifying law enforcement. Victims/survivors also have the right to decline to notify law enforcement or report a crime.

When reporting sexual harassment, sexual assault, domestic violence, dating violence, sexual exploitation, and/or stalking, please note the following:

- The preservation of evidence may strengthen investigations, which may result in a better chance of holding the alleged offender responsible or in obtaining a restraining order (evidence may include the clothing worn at the time of the incident, a record of threatening text messages and/or emails, and bodily fluids).
- A Forensic Nurse Exam can be obtained free of charge and without notifying UW Oshkosh or law enforcement. Information on how to obtain a Forensic Nurse Exam can be found here: Aurora Medical Center, 920.424.7420 or ThedaCare Regional Medical Center, 920.731.4101, or walk-in to the Emergency Room at either location. Students may call University Police 920.424.1212 for a ride to the hospital without disclosing the reason they need or want a ride.



- Although it is best not to shower, even if a victim has showered and changed clothes, a police report can be filed and/or medical exam can be conducted.
- Campus officials are required to provide information about options and assist a victim/survivor in contacting law enforcement if requested.

### Crime Victim's Rights

In the state of Wisconsin, individuals who are the victims of a crime, and who report that crime to the police, are entitled to certain protections.<sup>44</sup> These rights include the general right to:

- be “treated with fairness, dignity, and respect for their privacy by public officials, employees, or agencies”<sup>45</sup>
- attend court proceedings<sup>46</sup>
- “receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts”<sup>47</sup>
- “be informed of financial assistance and other social services available as a result of being a witness of a crime”<sup>48</sup>
- be accompanied by a victim/survivor advocate to law enforcement interviews;<sup>49</sup> and at interviews and proceedings related to the crime.<sup>50</sup>

A full description of the rights of victims and witnesses of crimes is available at

<https://docs.legis.wisconsin.gov/statutes/statutes/950.pdf>.

### Information About Sex Offenders

The federal Campus Sex Crimes Prevention Act requires institutions of higher education to issue a statement to the campus community about where to find information on registered sex offenders in the state. It also requires registered sex offenders to notify the state if they are enrolled, carry on a vocation, or are employed in a post-secondary institution.

In Wisconsin, convicted sex offenders must register with the Department of Corrections; a registry can be found at <https://appsdoc.wi.gov/public>. The Wisconsin Department of Corrections supplies information to University Police regarding registered sex offenders who are enrolled or employed at UW Oshkosh. This information can also be found on the University Police website, <https://uwosh.edu/police/resources/sex-offender-information/>.

### Restraining Orders and No Contact Orders

A Restraining Order is a court order that orders someone not to hurt you, to stay away from you, move out of the house, have no contact with you, or stop harassing you. Restraining Orders are not issued by the University but can be enforced by University Police. When a Restraining Order is granted by the court, law enforcement has the authority to make an immediate arrest if a violation occurs. Victims/survivors who have an active Restraining Order should inform University Police 920.424.1212 so they can help enforce the order on campus.

Community Advocates can assist students with the process of obtaining a court issued restraining order with the local court systems in Winnebago and/or Fond du Lac counties, as well as in obtaining a University No Contact Order.

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<sup>44</sup> Wis. Stat. Ch. 950.

<sup>45</sup> Wis. Stat. § 950.04(1v)(ag).

<sup>46</sup> Wis. Stat. § 950.04(1v)(b).

<sup>47</sup> Wis. Stat. § 950.04(2w)(c).

<sup>48</sup> Wis. Stat. § 950.04(2w)(d).

<sup>49</sup> Wis. Stat. § 950.045(1).

<sup>50</sup> Wis. Stat. § 950.045(2).

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For information on Restraining Orders in Winnebago County (Oshkosh and Fox Cities campuses), call 920.236.4848 or go to the Clerk of Courts Office located at 415 Jackson St., Oshkosh. More information can be found on the Winnebago County's Sheriff's website, <https://www.co.winnebago.wi.us/faq/sheriff-faq/how-do-i-get-restraining-order>

For information on Restraining Orders in Fond du Lac County (Fond du Lac campus), call 920.929.3038 or go to the Clerk of Courts Office located at 160 Macy St., Fond du Lac, WI 54935.

District Attorneys are attorneys who uphold Wisconsin criminal laws and represent crime victims. Most district attorney offices have Victim/Witness Coordinators or programming that can assist victims through criminal justice processes.

The District Attorney for Winnebago County is Christian Gossett. His office is located at 448 Algoma Blvd., Oshkosh, WI 54901, or call 920.236.4977.

The District Attorney for Fond du Lac County is Eric Toney. His office is located at 160 Macy St., Fond du Lac, WI 54935 or call 920.929.3048.

The following information is provided by the Wisconsin Department of Justice, available at <https://www.doj.state.wi.us/ocvs/victim-rights/restraining-orders>, and the Wisconsin Coalition Against Sexual Assault, available at [http://www.wcasa.org/file\\_open.php?id=184](http://www.wcasa.org/file_open.php?id=184).

Any further questions can be directed to the local district attorney's office or with an advocate at a sexual assault or domestic violence office or shelter.

### Restraining Order Information

To get a restraining order, you must first request papers for a temporary restraining order (TRO). These papers are called the petition. The person completing the petition is called the petitioner and the person you file against is called the respondent. Once you file a TRO petition, the court decides whether to issue a TRO based on the information you write in the petition. If the court grants the TRO, the court will schedule a hearing for you to come back to court within 14 days. This hearing is called an injunction hearing. At that hearing you will ask the court to issue a final order of protection, which is called an injunction. An injunction can be granted for up to 2 years for child abuse, and up to 4 years for domestic abuse, harassment, and individuals at risk.<sup>51</sup>

Restraining order forms can be found at <http://www.wicourts.gov/forms1/circuit.htm>, under the heading "civil." In addition, the clerk of court in your county can provide you with the appropriate forms and limited information as to how to complete them. A list of clerks of court by county can be found at <https://www.wicourts.gov/courts/circuit/clerk.htm>

For a list of sexual assault programs, please see [www.wcasa.org](http://www.wcasa.org). In addition to providing information to victims/survivors about restraining orders, advocates can help develop a detailed safety plan and let the victim/survivor know what other services might be available to them.<sup>52</sup>

### Harassment Restraining Orders (HROs)

An HRO may be the only remedy available to some victims/survivors who have been sexually assaulted or stalked by someone with whom they have not had an intimate relationship. Grounds include but are not limited to:

- striking, shoving, kicking, or otherwise subjecting another person to physical contact or attempting or threatening to do the same

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<sup>51</sup> Wisconsin Department of Justice (2017). Restraining Orders, available at <https://www.doj.state.wi.us/ocvs/victim-rights/restraining-orders>.

<sup>52</sup> WCASA (2017). Restraining Orders for Sexual Assault Victims, available at [http://www.wcasa.org/file\\_open.php?id=184](http://www.wcasa.org/file_open.php?id=184).

- engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and serve no legitimate purpose
- engaging in child abuse (see definition below), sexual assault, or stalking.

One act of sexual assault can be grounds to obtain this type of restraining order.

### *Who can file?*

Any person harassed, including an adult, a child, the parent, stepparent, or legal guardian of a child who was harassed, or a child's guardian ad litem. A few additional individuals can petition in a proceeding brought under Wis. Stat. §48.13 (CHIPS, child in need of protection or services).

### *Against whom can an HRO be granted?*

Any person, child, or adult, who engages in harassment as described above.

### *Remedies:*

The respondent can be ordered to stop or avoid harassing the petitioner, to avoid the residence of the petitioner (this can be ordered temporarily even when the respondent owns the property), or any combination of these remedies. The RO can be in effect for up to 4 years. A firearm surrender is not automatic but may be requested by the petitioner of the HRO.

### *Domestic Abuse Restraining Order (DARO)*

Sexual assault is a common form of domestic abuse by intimate partners. Grounds for a DARO include but are not limited to:

- intentional infliction of physical pain
- physical injury or illness
- intentional impairment of physical condition
- sexual assault (1st – 3rd degree)
- intentional damage of property
- threats to engage in any of the above.

### *Who can file?*

- An adult family member
- An adult household member
- An adult former spouse
- An adult with whom the petitioner has a child in common,
- An adult with whom the petitioner has or had a dating relationship,
- An adult under a caregiver's supervision
- A guardian of an individual adjudicated, incompetent.

The petitioner must be the victim except for the guardian of an incompetent individual.

### *Against whom can a DARO be granted?*

- An adult family member,
- An adult household member
- An adult former spouse
- An adult with whom the petitioner has a child in common
- An adult with whom the petitioner has or had a dating relationship
- An adult caregiver

### *Remedies:*

The respondent can be ordered to:

- refrain from committing acts of domestic abuse against the victim
- avoid the victim's residence or any other location temporarily occupied by the victim
  - This can be ordered temporarily even when the respondent owns the property.
- avoid contacting or having others contact the victim
- any combination of these remedies
- any other appropriate remedy not inconsistent with the remedies requested in the petition.

If a DARO is granted, it must be for the duration requested by the victim but may not exceed four years. Firearms surrender is mandatory when a DARO is granted.

### *Child Abuse Restraining Order (CARO)*

This restraining order is used when children are abused. Grounds include but are not limited to:

- sexual assault (1st – 4th degree)
- sexual assault of a child (1st and 2nd degree)
- repeated acts of sexual assault
- sexual exploitation of a child
- permitting, allowing, or encouraging a child to engage in child prostitution
- causing a child to view or listen to sexual activity
- causing child to expose or exposing genitals or pubic area to a child
- emotional damage
- physical injury
- threats to engage in this conduct.

### *Who can file?*

A victim of child abuse or the parent, stepparent, legal guardian, or guardian ad litem of a victim. A few additional individuals can petition in a proceeding brought under Wis. Stat. §48.13 (child in need of protection or services).

### *Against whom can the CARO be granted?*

Any person, child, or adult, who engages in child abuse. A claim of emotional damage can be brought against a parent, guardian, or legal custodian who has neglected, refused, or been unable to ameliorate those symptoms for reasons other than poverty.

### *Remedies:*

A respondent can be ordered to avoid the victim's residence and avoid contacting or causing any person to contact the victim (with a few narrow exceptions). The injunction can be granted for up to two years or until the child reaches 18, whichever is first. Firearms surrender is mandatory if a CARO is granted. If the respondent is the parent of the child victim, a CARO may also set or restrict visitation rights.

### *Enforcing a Restraining Order*

Call the police immediately if the respondent violates the Restraining Order. The respondent has just committed a crime. Ask the police to have the District Attorney's office review the case for charges even if no arrest is made. If the respondent is on probation or parole, give a copy of the Restraining Order to the parole agent and report any violations. You can find out who their probation agent is by calling the Department of Corrections Central Records at 608.240.3750 and providing the person's name or birthday.

### *UW Oshkosh and Restraining Orders*

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UW Oshkosh will enforce active restraining orders issued by a court of law, including tribal courts, when provided notice of the order. Students who have a court-issued restraining order and wish to inform University Police can contact the University Police directly at 920.424.1212. Employees who have a court issued restraining order should notify Human Resources. Please be aware, notifying the University of an existing court-ordered restraining order may require the Title IX Coordinator to follow up as prescribed by Title IX. If your restraining order is being violated, regardless of whether you have informed the University Police or not, please call 911 immediately.

### No Contact Orders Issued by UW Oshkosh

When appropriate, UW Oshkosh uses a no contact order to support a safe and accessible campus environment. A no contact order is a university-issued directive prohibiting the recipients from having contact in any form with each other. A no contact order is not a sanction but a way to maintain the status quo and reduce the stress of all parties. A no contact order is different than a restraining order issued by a court of law and may be issued independent of a university investigatory or disciplinary process as a supportive measure. A no contact order is issued when an authorized university official determines if an individual should be prohibited from having contact with another individual or individuals. No contact orders are most often issued after a report of sexual misconduct or while investigating sexual misconduct cases involving allegations of sexual harassment, sexual assault, dating or domestic violence, sexual exploitation, or stalking. A no contact order may prohibit the following types of contact:

- face-to-face/in person
- telephone
- e-mail
- text message
- social networking sites
- written communication
- video and other electronic communication
- contact through third parties

### Students

The Title IX Coordinator can issue no contact orders when there are allegations of sexual misconduct. The Dean of the Students' Office can also issue no contact orders. A no contact order is issued in writing via a student's university email, and when possible, verbally. Recipients of the no contact order are informed future contact with the individual or individuals named in the directive may be considered harassment and could result in a disciplinary sanction. If the individuals involved are in student organizations or classes together, the parameters of the no contact order will be discussed and additional expectations for minimizing contact may be added to the written correspondence. Students will be notified of their right to question and/or amend the terms of a no contact order issued to them by appealing the order with the Vice Chancellor of University Affairs.

Students who violate a no contact order risk being charged, investigated, and sanctioned through the nonacademic misconduct process for UWS 17.09(4) Harassment and/or UWS 17.09(11) False Statement or Refusal to Comply Regarding a University Matter. No contact orders do not appear on transcripts.

### Employees

Supervisors, in consultation with Human Resources, have the authority to regulate workplace behavior of academic and university staff. The provost may regulate faculty if there is a work-related reason for doing so. The Title IX Coordinator may also issue a no contact order for any employee. No contact orders are typically issued in a letter attached to a university email and/or in-person to both parties. UW Oshkosh may issue no contact orders to employees when appropriate circumstances arise. Circumstances under which a no contact order may be issued include, but are not limited to, pending disciplinary investigations and grievance processes. A no contact order may limit an employee's contact with another employee, a student, or other member of the University community. Violation of a no-contact

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order issued by the University may result in disciplinary action up to and including dismissal. Employees will be notified of their right to question and/or amend the terms of a no contact order issued to them by appealing the order with the Vice Chancellor of University Affairs.

### Enforcing a UW Oshkosh, No Contact Directive

University Police enforce all university no contact orders. Parties bound by a no contact order can call the non-emergency number, 920.424.1212, or 911 in emergencies, if the other party is violating a no contact order. No contact orders may be rescinded at any time for good cause or upon resolution of a grievance or complaint process. For more information about institutional no contact orders and how to request them, please contact the University Title IX Coordinator. Their contact information can be found on the Title IX website, <https://uwosh.edu/titleix/coordinator/>.

### UW Oshkosh Supportive and Protective Measures

UW Oshkosh will provide notification about appropriate supportive measures available to complainants and respondents involved in a report or grievance process related to sexual misconduct. There are a range of measures available to the victim/survivor and the accused person including, changes to academic, working, transportation, and living situations when reasonably available. UW Oshkosh may also issue a directive ordering the alleged offender and victim/survivor not to have contact with each other. Supportive measures are developed on a case-by-case basis in response to the report and allegations. The measures can be ongoing and independent from the outcome of a disciplinary action.

When determining supportive measures, the University may consider:

- the specific needs requested by the victim/survivor
- the age of the people involved
- the severity or pervasiveness of the allegations
- whether the victim/survivor and alleged offender share the same residence hall, dining hall, job location, classes, or extra-curricular activities
- other measures that have already been taken to protect the victim/survivor

The following offices can provide information and assistance to those requesting supportive and protective measures from the University.

Contact	Supportive Measure	Location	Email	Phone
Residence Life	Change in Residence Life Hall or Room	Gruenhagen Conference Center 208 Osceola St. Oshkosh campus	<a href="mailto:housing@uwosh.edu">housing@uwosh.edu</a>	920.424.3212
Dean of Students	Change in class schedule Out of class letter Coordination with other campus departments	Dempsey Hall, 125 800 Algoma Blvd. Oshkosh campus	N/A	920.424.3100
Human Resources	Change in work schedule or location	Dempsey Hall, 328 800 Algoma Blvd. Oshkosh campus	<a href="mailto:hroffice@uwosh.edu">hroffice@uwosh.edu</a>	920.424.1166

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University Police	Campus Restriction Letter Safe Parking Safe Ride Safe Walk Coordination with other law enforcement agencies	Radford Hall, Lower Level 777 Algoma Blvd. Oshkosh campus	<a href="mailto:uwopolicy@uwosh.edu">uwopolicy@uwosh.edu</a>	920.424.1212
Title IX Coordinator	No Contact Order Coordination with other campus departments	Dempsey Hall, 337 800 Algoma Blvd. Oshkosh campus	<a href="mailto:titleix@uwosh.edu">titleix@uwosh.edu</a>	920.424.0835

Students and employees who report sexual harassment, sexual assault, domestic or dating violence, sexual exploitation, or stalking to UW Oshkosh will be provided written information about campus and community resources and services available for victims/survivors. UW Oshkosh will provide appropriate supportive and protective measures regardless of whether a victim/survivor chooses to report to University Police, local law enforcement, or file a formal complaint with the University.

### Confidentiality and Privacy

UW Oshkosh will maintain as confidential any supportive or protective measures provided to the victim/survivor to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the measures. The University takes every precaution to protect victims' privacy. The University will share information only with university officials who have a legitimate educational interest and/or those who need to know for the purposes of providing an institutional response.

To protect victim/survivor safety and privacy, UW Oshkosh maintains information about sexual misconduct in a secure manner. When the University is notified of an incident, it will balance the victims/survivor's request to keep identifying information confidential with Title IX's mandate to investigate sexual harassment and/or other sexual misconduct after a formal complaint has been filed.

To the extent permissible by law, UW Oshkosh will try to keep victim/survivor and necessary party information private. However, confidentiality cannot be guaranteed unless that information is reported directly to one of the designated campus confidential resources. For victims aged 18 and older who disclose to non-confidential sources, reports of sexual harassment, sexual assault, domestic violence, dating violence, sexual exploitation, or stalking are reported to the University Title IX Coordinator. The Title IX Coordinator will share relevant information only with individuals who are responsible for handling the university's response to incidents and who need to know to conduct the response, and as necessary to comply with Wisconsin Public Records law, a valid subpoena, a lawful discovery request, or a governmental inquiry or investigation.

UW Oshkosh follows applicable Title IX guidance and the requirements of the federal Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, when evaluating whether to disclose student information. In the case of minors, University employees must report child abuse to Child Protective Services or local law enforcement.

For Clery Act reporting and disclosures, a victim's name or personally identifying information will never appear in a Timely Warning, on the Daily Crime Log or in the Annual Security Report. UW Oshkosh will redact a victim's identifying information when responding to requests for information pursuant to the Wisconsin Public Records law. The University will not disclose identifiable information about research subjects if prohibited by:



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- An NIH-issued Certificate of Confidentiality
- HIPAA regulations
- State laws pertaining to the privacy of health information
- Promises of confidentiality made to research subjects pursuant to the federally required consent form and authorization form

UW Oshkosh must respond to valid subpoenas unless prohibited by other applicable laws and may not be able to redact information when responding to a subpoena.

Other licensed healthcare providers, counselors, and social workers employed by UW Oshkosh follow the confidentiality requirements of their profession when they are providing care to a patient or a client.

### On-Campus Confidential Resources for Students

The following offices and/or persons are designated as on-campus confidential resources for disclosures of sexual misconduct. These offices and/or persons do not have to bring reports forward to the Title IX Coordinator or any other university official. Students can contact the following on-campus confidential resources for help, assistance, support, and services:

#### **Student Health Center**

Student Health Center services include medical care, such as birth control, GYN exams and PAP tests; illness and injury care and prevention; immunizations; physical exams and a variety of procedures. The UWO Student Health Center also offers laboratory, mental health, nutrition, travel health, prescriptions, and medical records services.

Radford Hall, Upper Level, Oshkosh campus

777 Algoma Blvd. Oshkosh, WI 54901

920.424.2424

[studenthealth@uwosh.edu](mailto:studenthealth@uwosh.edu)

<https://uwosh.edu/studenthealth/>

#### **University Counseling Center**

The University Counseling Center provides free and confidential services addressing the mental and emotional health needs of students.

Student Success Center 240, Oshkosh campus

750 Elmwood Ave. Oshkosh, WI 54901

920.424.2061

<https://uwosh.edu/counseling/>

### On-Campus Confidential Resources for Employees

The Employee Assistance Program (EAP) offers an array of free and confidential services for employees experiencing personal or work-related problems. There are counselors and consultants available 24/7 every day of the year. Use of this service and the information you share is confidential, except when your safety or the safety of others may be at risk. This program is available to all employees and household members.

UWO employees can access EAP services and programs by calling 833.539.7285, or go online for more information,

<https://uwosh.edu/hr/employee-assistance-program/>

### Off-Campus Confidential Resources

In addition to confidential campus resources listed above, the communities surrounding the three UW Oshkosh campus locations have many confidential resources available to university students and employees.

**Sexual Assault Crisis Center-Fox Cities**

17 Park Place, 400, Appleton, WI 54914

24/7 Sexual Assault Hotline and Office 920.733.8119

**Sexual Assault Nurse Examiner (SANE)**

Aurora Medical Center

855 N. Westhaven Drive, Oshkosh, WI 54904

920. 456.7420 or Walk-in Emergency Department

**ThedaCare Regional Medical Center**

1818 N. Meade St., Appleton, WI 54911

920.731.4101 or Walk-in Emergency Department

**Reach Counseling Services**

1509 S. Commercial St., Neenah, WI 54965

24/7 Sexual Assault Hotline and Office 920.722.8150

**ASTOP, Inc.**

21 Marr St., Fond du Lac, WI 54935

24/7 Sexual Assault Hotline and Office 920. 926.5395

**Christine Ann Domestic Abuse Services, Inc.**

206 Algoma Blvd., Oshkosh, WI 54901

24/7 Crisis Line and Office 920. 235.5998 OR 800.261.5998

[info@christineann.net](mailto:info@christineann.net)

**Harbor House Domestic Abuse**

720 W. 5th St., Appleton, WI 54914

24/7 Crisis Line and Office 920.832.1666 OR 800.970.1171

**Solutions Center**

39 N. Sophia St., Fond du Lac, WI 54935

Office 920. 923.2880

24/7 Crisis Lines 920.923.1700 OR 800.852.9571

**UW Oshkosh Disciplinary Action for Sexual Harassment, Sexual Assault, Sexual Exploitation, Domestic Violence, Dating Violence, & Stalking**

UW Oshkosh prohibits sexual misconduct of every kind including, sexual harassment, sexual assault, sexual exploitation, domestic and dating violence, or stalking. The following are the policies and procedures of the University of Wisconsin System to respond to reports of sexual misconduct.

The disciplinary proceeding will be based on the status of the accused person at the university. Complaints against students or employees should be reported to the Title IX Coordinator. Note: UWS Chapters 17 and 18 cover nonacademic student misconduct. UWS Chapters 4, 7, and 11 cover faculty and academic staff misconduct.

Complaints Involving Allegations Occurring Before August 14, 2020

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Complaints against students involving allegations occurring before August 14, 2020, will be processed through the University of Wisconsin System previous version of Chapter 17.<sup>53</sup> Complaints against employees occurring before that date will be processed under:

- The previous version of University of Wisconsin System Chapter 4 for faculty<sup>54</sup>
- The previous version of University of Wisconsin System Chapter 11 for academic staff<sup>55</sup>
- UW System Administrative Policy 1233<sup>56</sup> and [List any campus policy equivalents]<sup>57</sup> for university staff.
- Previous version of Regent Policy Document 14-2<sup>58</sup> for Title IX complaints against employees other than faculty and academic staff.

### Complaints Involving Allegations Occurring Between August 14, 2020, and May 10, 2021

Complaints against students involving allegations occurring between August 14, 2020, and May 10, 2021, will be processed through the Emergency Rules for University of Wisconsin System Chapter 17.<sup>59</sup> Complaints against employees will be processed under:

- University of Wisconsin System Chapter 4 for faculty<sup>60</sup>
- University of Wisconsin System Chapter 11 for academic staff<sup>61</sup>
- UW System Administrative Policy 1233<sup>62</sup> and [List any campus policy equivalents]<sup>63</sup> for university staff
- Regent Policy Document 14-2 and Appendix C<sup>64</sup> for Title IX complaints against employees other than faculty and academic staff.

### Complaints Involving Allegations Occurring on and after May 11, 2021

Complaints against students involving allegations occurring on and after May 11, 2021, will be processed through the University of Wisconsin System Chapter 17.<sup>65</sup> Complaints against employees will be processed under:

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<sup>53</sup> Previous UWS Ch 17, Wisconsin Admin. Code. Available at

<https://docs.legis.wisconsin.gov/document/administrativecodearchive/726/insert/UWS%2017.pdf>

<sup>54</sup> Previous UWS Ch 4, Wisconsin Admin. Code. Available at

<https://docs.legis.wisconsin.gov/document/administrativecodearchive/726/insert/UWS%204.pdf>

<sup>55</sup> Previous UWS Ch. 11, Wisconsin Admin. Code. Available at

<https://docs.legis.wisconsin.gov/document/administrativecodearchive/726/insert/UWS%2011.pdf>

<sup>56</sup> SYS 1233 available at <https://www.wisconsin.edu/uw-policies/uw-system-administrative-policies/grievance-procedures/>

<sup>57</sup> [Name of Campus Policy Equivalent to SYS 1233] available at [link to policy]

<sup>58</sup> Regent Policy Document 14-2. For allegations before 8/5/20, use:

[https://www.wisconsin.edu/regents/download/meeting\\_materials/2016\(3\)/december/Education-Committee-pdf-December-2016.pdf](https://www.wisconsin.edu/regents/download/meeting_materials/2016(3)/december/Education-Committee-pdf-December-2016.pdf) (pgs. 76-90). For allegations between 08/05/20-8/14/20, use:

[https://www.wisconsin.edu/regents/download/meeting\\_materials/2020\\_meeting\\_materials/meeting-book---board-of-regents-meeting---august-5,-2020.pdf](https://www.wisconsin.edu/regents/download/meeting_materials/2020_meeting_materials/meeting-book---board-of-regents-meeting---august-5,-2020.pdf) (pgs. 108-133)

<sup>59</sup> UWS Emergency Ch 17, Wisconsin Admin. Code. Available at [https://docs.legis.wisconsin.gov/code/emergency\\_rules/all/emr2027](https://docs.legis.wisconsin.gov/code/emergency_rules/all/emr2027)

<sup>60</sup> UWS Emergency Ch 4, Wisconsin Admin. Code. Available at [https://docs.legis.wisconsin.gov/code/emergency\\_rules/all/emr2024](https://docs.legis.wisconsin.gov/code/emergency_rules/all/emr2024)

<sup>61</sup> UWS Emergency Ch. 11, Wisconsin Admin. Code. Available at

[https://docs.legis.wisconsin.gov/code/emergency\\_rules/all/emr2026](https://docs.legis.wisconsin.gov/code/emergency_rules/all/emr2026)

<sup>62</sup> SYS 1233 available at <https://www.wisconsin.edu/uw-policies/uw-system-administrative-policies/grievance-procedures/>

<sup>63</sup> [Name of Campus Policy Equivalent to SYS 1233] available at [link to policy]

<sup>64</sup> Regent Policy Document 14-2 Appendix C: For allegations between 8/14/20-8/20/20, use:

[https://www.wisconsin.edu/regents/download/meeting\\_materials/2020\\_meeting\\_materials/meeting-book---board-of-regents-meeting---august-5,-2020.pdf](https://www.wisconsin.edu/regents/download/meeting_materials/2020_meeting_materials/meeting-book---board-of-regents-meeting---august-5,-2020.pdf) (pgs. 108-133). For allegations between 08/20/20-6/1/21, use:

[https://www.wisconsin.edu/regents/download/meeting\\_materials/2020\\_meeting\\_materials/meeting-book---board-of-regents-meeting---august-20,-2020.pdf](https://www.wisconsin.edu/regents/download/meeting_materials/2020_meeting_materials/meeting-book---board-of-regents-meeting---august-20,-2020.pdf) (pgs. 82-111)

<sup>65</sup> UWS Ch 17, Wisconsin Admin. Code. Available at [https://docs.legis.wisconsin.gov/code/admin\\_code/uws/17](https://docs.legis.wisconsin.gov/code/admin_code/uws/17)

- University of Wisconsin System Chapter 4 for faculty<sup>66</sup>
- University of Wisconsin System Chapter 11 for academic staff<sup>67</sup>
- UW System Administrative Policy 1233<sup>68</sup> and [List any campus policy equivalents]<sup>69</sup> for university staff
- Regent Policy Document 14-2 and Appendix C<sup>70</sup> for Title IX complaints against employees other than faculty and academic staff.

## University of Wisconsin System Chapter 17: Student Non-Academic Misconduct

UWS Chapter 17 is a part of the University of Wisconsin Administrative Code and was adopted by the Board of Regents as a set of disciplinary procedures for the University of Wisconsin System. It defines conduct by students that may result in university discipline, describes the sanctions which may be imposed, and the procedures for carrying out disciplinary actions. Due process for students accused of misconduct is an important part of these procedures.

Nonacademic misconduct policies cover a broad spectrum of conduct involving students' behavior wherever it takes place. A student may be subject to discipline for conduct that is or already has been the subject of criminal action. This means a student ticketed or arrested by law enforcement may also be subject to university misconduct proceedings.

## UWS Chapter 17, Wis. Admin. Code: Student Nonacademic Disciplinary Procedures

### *Subchapter I — General*

#### *UWS 17.01 Policy statement.*

The missions of the University of Wisconsin System and its individual institutions can be realized only if the university's teaching, learning, research, and service activities occur in living and learning environments that are safe and free from violence, harassment, fraud, theft, disruption, and intimidation. In promoting such environments, the university has a responsibility to address student nonacademic misconduct; this responsibility is separate from and independent of any civil or criminal action resulting from a student's conduct. This chapter defines nonacademic misconduct, provides university procedures for effectively addressing misconduct, and offers educational responses to misconduct. The University of Wisconsin System is committed to respecting students' constitutional rights. Nothing in this chapter is intended to restrict students' constitutional rights, including rights of freedom of speech or to peaceably assemble with others.

#### *UWS 17.02 Definitions.*

In this chapter:

- (1) "Chief administrative officer" means the chancellor of an institution or the chancellor's designees.
- (2) "Clear and convincing evidence" means information that would persuade a reasonable person to have a firm belief that a proposition is more likely true than not true. It is a higher standard of proof than "preponderance of the evidence."
- (2m) "Complainant" means any individual who is alleged to be the subject of sexual misconduct, as defined in s. UWS 17.151.
- (2r) "Consent" means words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to engage in sexual activity or other activity referenced in the definitions of sexual assault and

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<sup>66</sup> UWS Emergency Ch 4, Wisconsin Admin. Code. Available at [https://docs.legis.wisconsin.gov/code/admin\\_code/uws/4](https://docs.legis.wisconsin.gov/code/admin_code/uws/4)

<sup>67</sup> UWS Ch. 11, Wisconsin Admin. Code. Available at [https://docs.legis.wisconsin.gov/code/admin\\_code/uws/11](https://docs.legis.wisconsin.gov/code/admin_code/uws/11)

<sup>68</sup> SYS 1233 available at <https://www.wisconsin.edu/uw-policies/uw-system-administrative-policies/grievance-procedures/>

<sup>69</sup> [Name of Campus Policy Equivalent to SYS 1233] available at [link to policy]

<sup>70</sup> Regent Policy Document 14-2 and Appendix C available at <https://www.wisconsin.edu/regents/policies/sexual-violence-and-sexual-harassment>

sexual exploitation in s. UWS 17.151. A person is unable to give consent if the person is in a state of incapacitation because of drugs, alcohol, physical or intellectual disability, or unconsciousness.

- (3) "Days" means calendar days.
- (4) "Delivered" means sent by electronic means to the student's official university email address and, in addition, provided by any of the following methods:
  - (a) Given personally.
  - (b) Placed in the student's official university mailbox.
  - (c) Mailed by regular first-class United States mail to the student's current address as maintained by the institution.
- (5) "Disciplinary file" means the record maintained by the student affairs officer responsible for student discipline.
- (6) "Disciplinary probation" means a status in which a student may remain enrolled in the university only upon the condition that the student complies with specified standards of conduct or other requirements or restrictions on privileges, for a specified period of time, not to exceed two years.
- (7) "Disciplinary sanction" means any action listed in s. UWS 17.085 (1) taken in response to student nonacademic misconduct.
- (7m) "Education program or activity" means, for purposes of Title IX misconduct only, locations, events, or circumstances over which the university exercised substantial control over both the respondent and the context in which the relevant misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the university.
- (8) "Expulsion" means termination of student status with resultant loss of all student rights and privileges.
- (8m) "Formal Title IX complaint" means, for the purposes of Title IX misconduct only, a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking against a student and requesting that the institution investigate the allegations. At the time of filing of the formal Title IX complaint, the complainant shall be participating in or attempting to participate in an educational program or activity. A formal Title IX complaint may be filed in person, by mail, by electronic mail, or any other method designated by the university. A formal Title IX complaint shall include a physical or digital signature of the complainant or the Title IX Coordinator.
- (9) "Hearing examiner" means an individual, other than the investigating officer, appointed by the chief administrative officer in accordance with s. UWS 17.06 (2) for the purpose of conducting a hearing under s. UWS 17.12 or 17.153.
- (9m) "Incapacitation" means the state of being unable to physically or mentally make informed rational judgments and effectively communicate, and may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.
- (10) "Institution" means any university, or an organizational equivalent designated by the board.
- (11) "Investigating officer" means an individual, or the individual's designee, appointed by the chief administrative officer of each institution, to conduct investigations of nonacademic misconduct under this chapter.
- (12) "Nonacademic misconduct hearing committee" or "committee" means the committee appointed pursuant to s. UWS 17.07 to conduct hearings under s. UWS 17.12 or UWS 17.153.
- (12m) "Party" refers to a respondent or complainant involved in a disciplinary procedure under subch. III.
- (13) "Preponderance of the evidence" means information that would persuade a reasonable person that a proposition is more probably true than not true. It is a lower standard of proof than "clear and convincing evidence" and is the minimum standard for a finding of responsibility under this chapter.
- (13m) "Respondent," means any student who was registered for study in an institution for the academic period, or between academic periods for continuing students, when the misconduct occurred and has been reported to have violated UWS 17.09 or UWS 17.151.

- (14) "Student" means any person who is registered for study in an institution for the academic period in which the misconduct occurred, or between academic periods, for continuing students.
- (15) "Student affairs officer" means the dean of students, student affairs officer, or other personnel designated by the chief administrative officer to coordinate disciplinary hearings and carry out duties described in this chapter.
- (16) "Suspension" means a loss of student status for a specified length of time, not to exceed two years, with resultant loss of all student rights and privileges.
- (17) "University lands" means all real property owned by, leased by, or otherwise subject to the control of the Board of Regents of the University of Wisconsin System.

*UWS 17.03 Consistent institutional policies.*

Each institution is authorized to adopt policies consistent with this chapter. A copy of such policies shall be filed with the Board of Regents and the University of Wisconsin System office of academic affairs.

*UWS 17.04 Notice to students.*

Each institution shall publish ch. UWS 17 on its website and shall make ch. UWS 17 and any institutional policies implementing ch. UWS 17 freely available to students through the website or other means.

*UWS 17.05 Designation of investigating officer.*

The chief administrative officer of each institution shall designate an investigating officer or officers for allegations of student nonacademic misconduct. The investigating officer shall investigate student nonacademic misconduct and initiate procedures for nonacademic misconduct under s. UWS 17.11 or 17.152. For allegations involving sexual misconduct, as defined in s. UWS 17.151, the Title IX Coordinator or designee shall serve as the investigating officer.

*UWS 17.06 Nonacademic misconduct hearing examiner.*

- (1) The chief administrative officer of each institution, in consultation with faculty, academic staff, and student representatives, shall adopt policies providing for the designation of a student nonacademic misconduct hearing examiner to fulfill the responsibilities of the nonacademic misconduct hearing examiner in this chapter.
- (2) A hearing examiner shall be selected by the chief administrative officer pursuant to the policies adopted under sub. (1).

*UWS 17.07 Nonacademic misconduct hearing committee.*

- (1) The chief administrative officer of each institution, in consultation with faculty, academic staff, and student representatives, shall adopt policies providing for the establishment of a student nonacademic misconduct hearing committee to fulfill the responsibilities of the nonacademic misconduct hearing committee in this chapter.
- (2) A student nonacademic misconduct hearing committee shall consist of at least three persons, including at least one student, except that no such committee shall be constituted with a majority of members who are students. The presiding officer, who may be the hearing examiner designated pursuant to s. UWS 17.06, shall be appointed by the chief administrative officer. The presiding officer and at least one other member shall constitute a quorum at any hearing held pursuant to due notice.

*UWS 17.08 Nonacademic misconduct occurring on or outside of university lands.*

- (1) MISCONDUCT ON UNIVERSITY LANDS. Except as provided in s. UWS 17.08 (2), the provisions contained in this chapter shall apply to the student conduct described in ss. UWS 17.09 and UWS 17.16 that occurs on university lands or at university-sponsored events.
- (2) MISCONDUCT OUTSIDE OF UNIVERSITY LANDS. The provisions contained in this chapter may apply to the student conduct described in ss. UWS 17.09 and 17.151 that occurs outside of university lands only when, in the judgment of the investigating officer, the conduct adversely affects a substantial university interest. In determining whether the



conduct adversely affects a substantial university interest, the investigating officer shall consider whether the conduct meets one or more of the following conditions:

- (a) The conduct constitutes or would constitute a serious criminal offense, regardless of the existence of any criminal proceedings.
- (b) The conduct indicates that the student presented or may present a danger or threat to the health or safety of the student or others.
- (c) The conduct demonstrates a pattern of behavior that seriously impairs the university's ability to fulfill its teaching, research, or public service missions.

*UWS 17.085 Disciplinary sanctions.*

(1) The disciplinary sanctions that may be imposed for nonacademic misconduct, in accordance with the procedures of ss. UWS 17.11 to 17.13, and 17.152 to 17.154, are any of the following:

- (a) A written reprimand.
- (b) Denial of specified university privileges.
- (c) Payment of restitution.
- (d) Educational or service sanctions, including community service.
- (e) Disciplinary probation.
- (f) Imposition of reasonable terms and conditions on continued student status. (g) Removal from a course in progress.
- (h) Enrollment restrictions on a course or program.
- (i) Suspension.
- (j) Expulsion.

(2) One or more of the disciplinary sanctions listed in sub. (1) may be imposed for an incident of nonacademic misconduct.

(3) Disciplinary sanctions shall not include the termination or revocation of student financial aid; however, this shall not be interpreted as precluding the individual operation of rules or standards governing eligibility for student financial aid under which the imposition of a disciplinary sanction could result in disqualification of a student for financial aid.

*Subchapter II – Procedures for Student Nonacademic Discipline in Nonsexual Misconduct Cases*

*UWS 17.09 Conduct subject to disciplinary action.*

In accordance with s. UWS 17.08, the university may discipline a student for engaging in, attempting to engage in, or assisting others to engage in any of the following types of nonacademic misconduct. Conduct defined in s. UWS 17.09 shall use the disciplinary procedure, hearing, appeal, and settlement processes detailed in ss. UWS 17.11 to 17.15. However, at the university's discretion, conduct defined in s. UWS 17.09, when arising out of the same facts and circumstances as sexual misconduct defined in s. 17.151, may be consolidated with such charges and addressed with the disciplinary procedure, hearing, appeal, and settlement processes detailed in ss. UWS 17.152 to 17.156.

- (1) DANGEROUS CONDUCT. Conduct that endangers or threatens the health or safety of oneself or another person.
- (4) HARASSMENT. Conduct defined in s. 947.013, Stats.
- (5) HAZING. Conduct defined in s. 948.51, Stats.
- (6) ILLEGAL USE, POSSESSION, MANUFACTURE, OR DISTRIBUTION OF ALCOHOL OR CONTROLLED SUBSTANCES. Use, possession, manufacture, or distribution of alcoholic beverages or of marijuana, narcotics, or other controlled substances, except as expressly permitted by law or university policy.
- (7) UNAUTHORIZED USE OF OR DAMAGE TO PROPERTY. Unauthorized possession of, use of, moving of, tampering with, damage to, or destruction of university property or the property of others.
- (8) DISRUPTION OF UNIVERSITY-AUTHORIZED ACTIVITIES. Conduct that obstructs or impairs university-run or university-authorized activities, or that interferes with or impedes the ability of a person to participate in university-run or university-authorized activities.



- (9) FORGERY OR FALSIFICATION. Unauthorized possession of or fraudulent creation, alteration, or misuse of any university or other governmental document, record, key, electronic device, or identification.
- (10) MISUSE OF COMPUTING RESOURCES. Conduct that involves any of the following:
  - (a) Failure to comply with laws, license agreements, and contracts governing university computer network, software, and hardware use.
  - (b) Use of university computing resources for unauthorized commercial purposes or personal gain.
  - (c) Failure to protect a personal password or university-authorized account.
  - (d) Breach of computer security, invasion of privacy, or unauthorized access to university computing resources.
- (11) FALSE STATEMENT OR REFUSAL TO COMPLY REGARDING A UNIVERSITY MATTER. Making a knowingly false oral or written statement to any university employee or agent of the university regarding a university matter, or refusal to comply with a reasonable request on a university matter.
- (12) VIOLATION OF CRIMINAL LAW. Conduct that constitutes a criminal offense as defined by state or federal law.
- (13) SERIOUS AND REPEATED VIOLATIONS OF MUNICIPAL LAW. Serious and repeated off-campus violations of municipal law.
- (14) VIOLATION OF CH. UWS 18. Conduct that violates ch. UWS 18, including, but not limited to, provisions regulating fire safety, theft, and dangerous weapons.
- (15) VIOLATION OF UNIVERSITY RULES. Conduct that violates any published university rules, regulations, or policies, including provisions contained in university contracts with students.
- (16) NONCOMPLIANCE WITH DISCIPLINARY SANCTIONS. Conduct that violates a sanction, requirement, or restriction imposed in connection with previous disciplinary action.
- (20) RETALIATION. Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured in ss. UWS 17.152 to 17.156, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under ss. UWS 17.152 to 17.156.

*UWS 17.11 Disciplinary procedure.*

- (1) PROCESS. The investigating officer may proceed in accordance with this section to impose, subject to hearing and appeal rights, one or more of the disciplinary sanctions listed in s. UWS 17.085 (1) for conduct defined in s. UWS 17.09.
- (2) CONFERENCE WITH RESPONDENT. When the investigating officer concludes that proceedings under this section are warranted, the investigating officer shall promptly contact the respondent in person, by telephone, or by electronic mail to offer to discuss the matter, review the investigating officer's basis for believing that the respondent engaged in nonacademic misconduct, and to afford the respondent an opportunity to respond. If the respondent fails to respond to the investigating officer, the investigating officer may proceed to decide on the basis of the available information.
- (3) DETERMINATION BY THE INVESTIGATING OFFICER THAT NO DISCIPLINARY SANCTION IS WARRANTED. If, as a result of a discussion under sub. (2) or review of available information, the investigating officer determines that nonacademic misconduct did not in fact occur, or that no disciplinary sanction is warranted under the circumstances, the matter shall be considered resolved without the necessity for further action. The investigating officer shall notify the respondent.
- (4) PROCESS FOLLOWING DETERMINATION BY THE INVESTIGATING OFFICER THAT NONACADEMIC MISCONDUCT OCCURRED.
  - (a) If, as a result of a discussion under sub. (2) or review of available information, the investigating officer determines that nonacademic misconduct did occur and that one or more of the disciplinary sanctions listed under s. UWS 17.085 (1) should be recommended, the investigating officer shall prepare a written report which shall contain all of the following:
    - 1. A description of the alleged misconduct.
    - 2. A description of all information available to the university regarding the alleged misconduct.

3. Specification of the sanction sought.
  4. Notice of the respondent's right to a hearing.
  5. A copy of this chapter and of the institutional procedures adopted to implement this section.
- (b) The written report shall be delivered to the respondent.
- (c) A respondent who receives a written report under this section has the right to a hearing under s. UWS 17.12 to contest the determination that nonacademic misconduct occurred, the choice of disciplinary sanctions, or both.
1. Where the disciplinary sanction sought is one of those listed in s. UWS 17.085 (1) (a) to (g), and if the respondent desires a hearing, the respondent shall file a written request with the student affairs officer within 10 days of the date the written report is delivered to the respondent. If the respondent does not request a hearing within this period, the determination of nonacademic misconduct shall be regarded as final, and the disciplinary sanction sought shall be imposed.
  2. Where the disciplinary sanction sought is one of those listed in s. UWS 17.085 (1) (h) to (j), the investigating officer shall forward a copy of the written report under par. (b) to the student affairs officer. The student affairs officer shall, upon receipt of the written report, proceed under s. UWS 17.12 to schedule a hearing on the matter. A hearing shall be conducted unless the respondent waives, in writing, the right to such a hearing.

#### *UWS 17.12 Hearing*

- (1) A respondent who requests a hearing, or for whom a hearing is scheduled under s. UWS 17.11 (4) (c) 2., for conduct defined in s. UWS 17.09, shall have the right to decide whether the matter shall be heard by a hearing examiner or a hearing committee.
- (2) If a respondent requests a hearing under s. UWS 17.11 (4) (c) 1., or a hearing is required to be scheduled under s. UWS 17.11 (4) (c) 2., the student affairs officer shall take the necessary steps to convene the hearing and shall schedule it within 15 days of receipt of the request or written report. The hearing shall be conducted within 45 days of receipt of the request or written report, unless a different time period is mutually agreed upon by the respondent and investigating officer or is ordered or permitted by the hearing examiner or committee.
- (3) No less than 5 days in advance of the hearing, the hearing examiner or committee shall obtain from the investigating officer, in writing, a full explanation of the facts upon which the determination of misconduct was based, and shall provide the respondent with access to or copies of the investigating officer's explanation, together with any other materials provided to the hearing examiner or committee by the investigating officer, including any additional available information of the type described in s. UWS 17.11 (4) (a) 2.
- (4) The hearing shall be conducted in accordance with the following guidance and requirements:
  - (a) The hearing process shall further the educational purposes and reflect the university context of nonacademic misconduct proceedings. The process need not conform to state or federal rules of criminal or civil procedure, except as expressly provided in ch. UWS 17.
  - (b) The respondent shall have the right to question adverse witnesses, the right to present information and witnesses, the right to be heard on the respondent's own behalf, and the right to be accompanied by an advisor of the respondent's choice. The advisor may be a lawyer. In cases where the recommended disciplinary sanction is identified in s. UWS 17.085 (1) (a) to (h), the advisor may counsel the respondent but may not directly question adverse witnesses, present information, or witnesses, or speak on behalf of the respondent except at the discretion of the hearing examiner or committee. In cases where the recommended disciplinary sanction is identified in s. UWS 17.085 (1) (i) or (j), or where the respondent has been charged with a crime in connection with the same conduct for which the disciplinary sanction is sought, the advisor may question adverse witnesses, present information, and witnesses, and speak on behalf of the respondent. In accordance with the educational purposes of the hearing, the respondent is expected to respond on the respondent's own behalf to questions asked of the respondent during the hearing.

- (c) The hearing examiner or committee:
  - 1. Shall admit information that has reasonable value in proving the facts, but may exclude immaterial, irrelevant, or unduly repetitious testimony.
  - 2. Shall observe recognized legal privileges.
  - 3. May take reasonable steps to maintain order, and to adopt procedures for the questioning of a witness appropriate to the circumstances of that witness's testimony, provided, however, whatever procedure is adopted, the complainant and respondent are allowed to effectively question the witness.
- (d) The hearing examiner or committee shall make a record of the hearing. The record shall include a verbatim record of the testimony, which may be a sound recording, and a file of the exhibits offered at the hearing. The respondent may access the record, except as may be precluded by applicable state or federal law.
- (e) The hearing examiner or committee shall prepare written findings of fact and a written statement of its decision based upon the record of the hearing.
- (f) A hearing examiner's or committee's finding of nonacademic misconduct shall be based on one of the following:
  - 1. Clear and convincing evidence, when the sanction to be imposed is one of those listed in s. UWS 17.085 (1) (h) to (j).
  - 2. A preponderance of the evidence, when the sanction to be imposed is one of those listed in s. UWS 17.085 (1) (a) to (g).
- (g) The hearing examiner or committee may impose one or more of the disciplinary sanctions listed in s. UWS 17.085 (1) (a) to (g) that differs from the recommendation of the investigating officer. Sanctions under s. UWS 17.085 (1) (h) to (j) may not be imposed unless previously recommended by the investigating officer.
- (h) The hearing shall be conducted by the hearing examiner or committee, and the university's case against the respondent shall be presented by the investigating officer or the investigating officer's designee.
- (i) The decision of the hearing examiner or committee shall be prepared within 14 days of the hearing, and delivered to the respondent, excluding information that may be precluded by state or federal law. The decision shall become final within 14 days of the date of the written decision unless an appeal is taken under s. UWS 17.13.
- (j) If the respondent fails to appear at a scheduled hearing and to proceed, the hearing examiner or committee may issue a decision based upon the information provided.
- (k) Disciplinary hearings are subject to s. 19.85, Stats., Wisconsin Open Meetings of Governmental Bodies and may be closed if the respondent requests a closed hearing or if the hearing examiner or committee determines it is necessary to hold a closed hearing. Deliberations of the committee shall be held in closed session, in accordance with s. 19.85, Stats. As such, proper notice and other applicable rules shall be followed.

*UWS 17.13 Appeal to the chancellor.*

- (1) For conduct defined in s. UWS 17.09, where the sanction prescribed by the hearing examiner or committee is one of those listed in s. UWS 17.085 (1) (h) to (j), the respondent may appeal in writing to the chief administrative officer within 14 days of the date of the written decision to review the decision of the hearing examiner or committee, based upon the record.
- (3) The chief administrative officer has 30 days from receipt of an appeal to respond and shall sustain the decision unless the chief administrative officer finds any of the following:
  - (a) The information in the record does not support the findings or decision.
  - (b) Appropriate procedures were not followed which resulted in material prejudice to the respondent.
  - (c) The decision was based on factors proscribed by state or federal law.
- (4) If the chief administrative officer makes a finding under sub. (3), the chief administrative officer may return the matter for consideration or may invoke an appropriate remedy of the chief administrative officer's own. The chief administrative officer's decision shall be communicated to the respondent.

*UWS 17.14 Discretionary appeal to the Board of Regents.*

For conduct defined in s. UWS 17.09, institutional decisions under ss. UWS 17.11 to 17.13 shall be final, except that the board of regents may, at its discretion, grant a review upon the record, upon written request submitted by the respondent within 14 days of the final institutional decision.

*UWS 17.15 Settlement.*

For conduct defined in s. UWS 17.09, the procedures set forth in this chapter allow the university and a respondent to enter into a settlement agreement regarding the alleged misconduct, after proper notice has been given. Any such agreement and its terms shall be in writing and signed by the respondent and the investigating officer or student affairs officer. The case is concluded when a copy of the signed agreement is delivered to the respondent.

*Subchapter III — Procedures for Student Nonacademic Discipline in Sexual Misconduct Cases*

*UWS 17.151 Sexual Misconduct subject to disciplinary action under ss. UWS 17.152 to 17.156.*

In accordance with s. UWS 17.08, the university may discipline a student for engaging in, attempting to engage in, or assisting others to engage in any of the following types of nonacademic misconduct. Sexual misconduct, as defined in this section, shall use the disciplinary procedure, hearing, appeal, and settlement processes detailed in ss. UWS 17.152 to 17.156.

- (1) SEXUAL HARASSMENT. Conduct on the basis of sex that satisfies any of the following:
  - (a) Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in an education program or activity of the university that when using the legal “reasonable person” standard is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution’s education program or activity.
  - (b) Unwelcome conduct of a sexual nature directed towards an individual that, when using the legal “reasonable person” standard, is so severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual’s academic or work performance or participation in a university sponsored or supported activity.
- (2) SEXUAL ASSAULT. An offense that meets any of the following definitions:
  - (a) Rape: The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.
  - (b) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
  - (c) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law as per s. 944.06, Stats.
  - (d) Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent as per s. 948.02, Stats.
- (3) DATING VIOLENCE. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (4) DOMESTIC VIOLENCE. Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a persons who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Wisconsin, or by any other person against an adult or youth individual who is protected from that person’s acts under the domestic or family violence laws of Wisconsin as per ss. 813.12(1)(am) and 968.075, Stats.

- (5) STALKING. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.
- (6) SEXUAL EXPLOITATION. Attempting, taking, or threatening to take nonconsensual sexual advantage of another person. Examples include:
  - (a) Engaging in any of the following conduct without the knowledge and consent of all participants:
    - 1. Observing, recording, or photographing private body parts or sexual activity of one or more complainants.
    - 2. Allowing another person to observe, record, or photograph sexual activity or private body parts of one or more complainants.
    - 3. Otherwise distributing recordings, photographs, or other images of the same of one or more complainants.
  - (b) Masturbating, touching one's genitals, or exposing one's genitals in complainant's presence without the consent of complainant, or inducing another person to do the same.
  - (c) Dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual activity.
  - (d) Inducing incapacitation through deception for the purpose of making another person vulnerable to non-consensual sexual activity.
  - (e) Coercing the complainant to engage in sexual activity for money or anything of value.
  - (f) Threatening distribution of any of the following, to coerce the complainant into sexual activity or providing money or anything of value:
    - 1. Photos, videos, or recordings depicting private body parts or sexual activity of one or more persons.
    - 2. Other information of a sexual nature including sexual history or sexual orientation.

*UWS 17.152 Sexual misconduct disciplinary procedure.*

(1) PROCESS.

The investigating officer may proceed in accordance with this section to impose, subject to hearing and appeal rights, one or more of the disciplinary sanctions listed in s. UWS 17.085 (1), for sexual misconduct defined in s. UWS 17.151, and conduct described in s. UWS 17.09 may be consolidated with sexual misconduct charges pursuant to this section and consistent with s. UWS 17.08. When responding to sexual misconduct, the university may take the following actions:

- (a) The university may consolidate disciplinary procedures as to allegations of sexual misconduct, as defined in s. UWS 17.151, against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.
  - (b) In consultation with the complainant, the university may choose to address allegations of sexual misconduct with non-disciplinary measures outside the procedures of this chapter. Non-disciplinary measures may include supportive measures and protective measures for complainant, which may or may not involve the respondent.
- (2) TITLE IX MISCONDUCT. Either a complainant or the Title IX Coordinator may file the formal Title IX complaint as defined in s. UWS 17.02 (8m). Unless a formal Title IX complaint is dismissed under par. (a) or (b), sexual misconduct under this section shall also be considered "Title IX misconduct" and require associated process. Dismissals will be handled as follows:
- (a) The university shall dismiss a formal Title IX complaint that does not meet all of the following requirements:
    - 1. The alleged conduct is on the basis of sex and meets the definitions of sexual harassment, as defined in s. UWS 17.151 (1) (a) or sexual assault, dating violence, domestic violence, or stalking as defined in s. UWS 17.151 (2) to (5).
    - 2. The alleged conduct occurred within a university "education program or activity," as defined in s. UWS 17.02(7m).
    - 3. The alleged conduct occurred against the complainant while in the United States.
    - 4. The complainant is participating in or attempting to participate in the university's education program or activity at the time the complaint is filed.

- (b) The university may dismiss a formal Title IX Complaint if any of the following conditions are met at any time during the disciplinary procedure or hearing:
  - 1. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal Title IX complaint or any allegations therein.
  - 2. The respondent is no longer enrolled in the university.
  - 3. Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal Title IX Complaint or allegations therein.
- (c) Upon dismissal of a formal Title IX Complaint, the university shall promptly send written notice of the dismissal and reason therefore simultaneously to the complainant and respondent. The complainant and respondent have the right to appeal the dismissal of a formal Title IX complaint under s. UWS 17.154 (1).
- (d) Dismissal of a formal Title IX Complaint does not preclude other university action under this chapter.
- (3) NOTICE OF INVESTIGATION. When the investigating officer concludes that proceedings under this section are warranted, the investigating officer shall promptly distribute a written Notice of Investigation in person, by telephone or by electronic mail, to the complainant and respondent. The Notice of Investigation shall include all of the following:
  - (a) The details known at the time of issuing notice, including:
    - 1. The identities of the complainant and respondent involved in the incident, if known.
    - 2. The conduct allegedly constituting sexual misconduct.
    - 3. The date and location of alleged incident, if known.
  - (b) Notice to the complainant and respondent that they may have an advisor of their choice, who may be an attorney.
  - (c) Notice to the complainant and respondent that they may inspect and review evidence collected during the investigation.
  - (d) Notice that making a knowingly false statement or refusing to comply regarding a university matter may violate s. UWS 17.09 (11) and could result in additional sanctions.
  - (e) Notice that the respondent is presumed not responsible for the alleged sexual misconduct until a determination regarding responsibility is made at the conclusion of the disciplinary procedure.
  - (f) Notice if the sexual misconduct disciplinary procedure also involves Title IX misconduct.
  - (g) Information about the nonacademic misconduct process available under this chapter and about any available informal resolution process.
  - (h) If, during the course of an investigation, the university decides to investigate allegations that are not included in the Notice of Investigation, the university shall send an amended Notice of Investigation with additional allegations.
- (4) INVESTIGATION. During the investigation, the investigating officer shall do all of the following:
  - (a) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
  - (b) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
  - (c) Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; the university may, however, establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
  - (d) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.



- (e) Not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the university obtains that party's voluntary, written consent to do so for a grievance process under this section.
- (5) REVIEW OF EVIDENCE. Prior to completion of the final investigative report, as described in sub. (6), the university shall provide the complainant and respondent and their advisors, if any:
  - (a) The evidence gathered during the university's investigation that is directly related to the allegations of sexual misconduct, in an electronic format or hard copy regardless of whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. This shall include information upon which the university does not intend to rely in reaching a determination regarding responsibility as well as any inculpatory or exculpatory evidence.
  - (b) At least 10 days to submit a written response to the evidence, which the investigator shall consider prior to completion of the final investigative report.
- (6) FINAL INVESTIGATIVE REPORT. The investigator shall create an investigative report that fairly summarizes relevant evidence. The final investigative report may contain recommended determinations as to whether sexual misconduct occurred, and specification of any sanction recommended. The final investigative report shall be delivered simultaneously to the respondent and complainant and their advisors, if any, for their review and response at least 10 days prior to a hearing. Upon distribution of the final investigative report to the complainant and respondent, the following conditions shall apply:
  - (a) The complainant and respondent have the right to a hearing under s. UWS 17.153 for a formal determination as to whether sexual misconduct occurred, potential disciplinary sanctions, or both.
  - (b) The university shall proceed under s. UWS 17.153 to schedule a hearing on the matter. A hearing shall be conducted unless the complainant and respondent waive, in writing, the right to such a hearing or otherwise voluntarily choose to proceed with a settlement agreement or informal resolution under s. UWS 17.156.

*UWS 17.153 Sexual misconduct hearing.*

- (1) The university shall have the right to decide whether a hearing examiner or hearing committee shall hear the matter.
- (2) The university shall take the necessary steps to convene the hearing and shall schedule it within 15 days of the distribution of the final investigative report. The hearing shall be conducted within 45 days of the distribution of the final investigative report, unless a different time period is mutually agreed upon by the complainant, respondent and university or is ordered or permitted by the hearing examiner or committee.
- (3) No less than 10 days in advance of the hearing, the hearing examiner or committee shall obtain from the investigating officer, in writing, the final investigative report and any additional available information of the type described in s. UWS 17.152(4).
- (4) The hearing shall be conducted in accordance with all of the following guidance and requirements:
  - (a) The hearing process shall further the educational purposes and reflect the university context of nonacademic misconduct proceedings. The process need not conform to state or federal rules of criminal or civil procedure, except as expressly provided in this chapter.
  - (b) Both the complainant and respondent shall have the right to question adverse witnesses, the right to present information and witnesses, the right to be heard on their own behalf, and the right to be accompanied by an advisor of their choice. The advisor may be a lawyer. In accordance with the educational purposes of the hearing, the complainant and respondent are expected to respond on their own behalf to questions asked of them during the hearing.
  - (c) The hearing examiner or committee:
    - 1. Shall admit information that has reasonable value in proving the facts, but may exclude immaterial, irrelevant, or unduly repetitious testimony.



2. May not permit questions and evidence about the complainant's sexual predisposition or prior sexual behavior unless:
    - a. Such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
    - b. If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
  3. Shall observe recognized legal privileges including those described in s. UWS 17.152 (4) (e).
  4. May take reasonable steps to maintain order and adopt procedures for the questioning of parties or witnesses appropriate to the circumstances of the testimony, provided the advisors for the complainant and respondent are allowed to effectively cross-examine any party or witness.
- (5) The party's advisors shall conduct cross examination directly, orally, and in real time by the party's advisor. A party may not personally conduct cross-examination. The following conditions shall apply:
- (a) If a party does not have an advisor at the hearing to conduct cross-examination, the university shall provide someone, without fee or charge, who may or may not be an attorney, to conduct cross-examination.
  - (b) Before a party or witness answers a cross-examination or other question, the hearing examiner or committee shall first determine whether a question is relevant or not and explain any decision to exclude those questions as not relevant.
  - (c) The hearing examiner or committee may not draw an inference regarding responsibility based solely on a party's or a witness's absence from the hearing or refusal to answer cross-examination questions
  - (d) At hearings involving Title IX misconduct, if a party or a witness does not submit to cross-examination at the hearing, then the hearing examiner or committee may not rely on any statement of that party or witness made prior to or during the hearing in reaching a determination regarding responsibility.
- (6) If a party fails to appear at a scheduled hearing and to proceed, the hearing examiner or committee may issue a decision based upon the information provided except as described in sub (5) (d).
- (7) The hearing examiner or committee shall make a record of the hearing. The record shall include a verbatim record of the testimony, which may be a sound recording, and a file of all evidence presented at the hearing. The respondent and the complainant may access the record, except as may be precluded by applicable state or federal law.
- (8) The hearing examiner or committee shall prepare written findings of fact and a written statement of its decision based upon the record of the hearing, using the preponderance of the evidence standard. The written report shall include all of the following:
- (a) Identification of the allegations potentially constituting sexual misconduct
  - (b) A description of the procedural steps taken from the receipt of the initial complaint through the determination, including any notifications to the complainant and respondent, interviews with the complainant and respondent and witnesses, site visits, methods used to gather other evidence, and hearings held.
  - (c) Findings of fact supporting the determination.
  - (d) Conclusions regarding the application of this chapter to the facts.
  - (e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility under this subchapter, including any Title IX misconduct, any disciplinary sanctions the university imposes on the respondent, and whether remedies designed to restore or preserve equal access to the university's education program or activity shall be provided by the university to the complainant.
  - (f) One or more of the disciplinary sanctions listed in s. UWS 17.085 (1) (a) to (j), if imposed by the hearing examiner or committee.
  - (g) Procedures and permissible bases for the complainant and respondent to appeal.
- (9) The decision of the hearing examiner or committee shall be prepared within 14 days of the hearing, and delivered simultaneously to the respondent and the complainant, excluding information that may be precluded by state or federal law. If an appeal is filed, the decision regarding responsibility becomes final on the date the university

provides the complainant and respondent with the written determination of the result of the appeal. If no appeal is filed, the decision regarding responsibility becomes final once the last date to appeal passes.

- (10) Disciplinary hearings are subject to s. 1985, Stats., Wisconsin Open Meetings of Governmental Bodies, and may be closed if the respondent or complainant requests a closed hearing or if the hearing examiner or committee determines it is necessary to hold a closed hearing. Deliberations of the committee shall be held in closed session, in accordance with s. 19.85, Stats. As such, proper notice and other applicable rules shall be followed.

*UWS 17.154 Appeal to the chancellor for sexual misconduct.*

- (1) The respondent or complainant may appeal in writing to the chief administrative officer within 14 days of the date of the written decision for a review, based on the record, of the following:
  - (a) A dismissal of a formal Title IX Complaint.
  - (b) The written decision of the hearing examiner or committee.
- (2) The chief administrative officer has 30 days from receipt of an appeal to respond in writing simultaneously to both the complainant and respondent and shall sustain the decision unless the chief administrative officer finds any of the following:
  - (a) The information in the record does not support the findings or decision.
  - (b) A procedural irregularity affected the outcome of the matter.
  - (c) The decision was based on factors proscribed by state or federal law.
  - (d) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter.
  - (e) The Title IX Coordinator, investigator, hearing examiner, or a member of the hearing committee had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- (3) If the chief administrative officer makes a finding under sub. (2), the chief administrative officer may return the matter for consideration or may invoke an appropriate remedy of their own. The chief administrative officer's written decision describing the result of the appeal and the rationale for the result shall be communicated simultaneously to the respondent and complainant.
- (4) When an appeal is filed, the chief administrative officer shall notify the other party in writing and give both the complainant and respondent a reasonable, equal opportunity to submit a written statement supporting or challenging the outcome.

*UWS 17.155 Discretionary appeal to the Board of Regents for sexual misconduct.*

University decisions under ss. UWS 17.152 to 17.154 shall be final, except that the board of regents may, at its discretion, grant a review upon the record, upon written request submitted by any party within 14 days of the final university decision. If the board of regents grants a review upon the record, it shall:

- (1) Notify the other party in writing and give both the complainant and respondent a reasonable, equal opportunity to submit a written statement supporting or challenging the outcome.
- (2) Issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both the complainant and respondent.

*UWS 17.156 Settlement for sexual misconduct.*

- (1) The procedures set forth in this chapter allow the university, the respondent, and the complainant to voluntarily enter into a settlement agreement or informal resolution regarding the alleged misconduct, any time after the notice of investigation has been distributed to the complainant and respondent and prior to any final determination regarding responsibility. Any such agreement and its terms shall be in writing and signed by the complainant, respondent, and the Title IX Coordinator or their designee except in any of the following circumstances:
  - (a) There is no identified complainant.

- (b) The complainant has chosen not to participate in proceedings pursuant to this subchapter
- (c) Title IX misconduct is involved, and the complainant has withdrawn the formal Title IX complaint.
- (2) In the circumstances described in sub. (1), the agreement and its terms may be signed by only the respondent and the Title IX Coordinator or designee. The case is concluded when a copy of the signed agreement is delivered to the complainant, if any, and respondent. At any time prior to agreeing to a resolution, either party has the right to withdraw from the settlement process and resume the process under ss. UWS 17.152 to 17.155.

*Subchapter IV — Effect of Discipline, Petitions for Restoration, and Emergency Suspension*

*UWS 17.16 Effect of discipline within the institution.*

A respondent who, at the time of commencement, is subject to a continuing disciplinary sanction under s. UWS 17.085 (1) or unresolved disciplinary charges as a result of a report under s. UWS 17.11 or 17.152 shall not be awarded a degree during the pendency of the sanction or disciplinary proceeding.

*UWS 17.17 Effect of suspension or expulsion within the university system.*

- (1) Suspension or expulsion shall be systemwide in effect and shall be noted on an individual's transcript, with suspension noted only for the duration of the suspension period.
- (2) An individual who is suspended from one institution in the University of Wisconsin System may not enroll in another institution in the system until the suspension has expired by its own terms, except as provided in s. UWS 17.18.
- (3) An individual who is expelled from one institution in the University of Wisconsin System may not enroll in another institution in the system, except as provided in s. UWS 17.18.
- (4) An individual who is in a state of suspension or expulsion from the university under this chapter, or who leaves or withdraws from the university while under nonacademic misconduct charges under this chapter, may not be present on any campus without the written consent of the chief administrative officer of that campus.
- (5) Upon completion of a suspension period, an individual who is academically eligible may re-enroll in the institution which suspended the individual, provided all conditions from previous disciplinary sanctions have been met.

*UWS 17.18 Petition for restoration of rights after suspension or expulsion.*

A respondent who has been suspended may petition to have their student status, rights, and privileges restored before the suspension has expired by its own terms under s. UWS 17.17 (2). A respondent who has been expelled may petition for the right to apply for readmission. The petition shall be in writing and directed to the chief administrative officer of the institution from which the respondent was suspended or expelled from a different University of Wisconsin institution to which the respondent seeks admission. The chief administrative officer shall make the readmission decision. In cases of sexual misconduct, the readmission decision shall be made in consultation with the Title IX Coordinator and reasonable attempts shall be made to notify the complainant of any change to the disciplinary outcome. If enrolled as a student at the time of the petition, the complainant shall be provided with the opportunity to respond to the petition prior to the readmission decision.

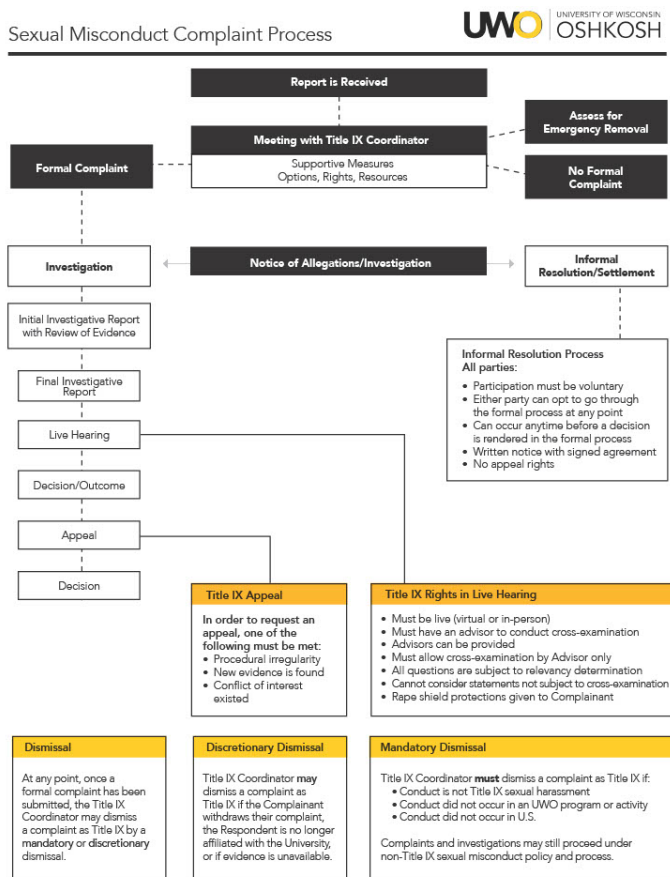
*UWS 17.19 Emergency suspension.*

- (1) The chief administrative officer may impose an emergency suspension on a respondent, pending final institutional action on a report of nonacademic misconduct, in accordance with the procedures of this section.
- (2) The chief administrative officer of each institution may impose an emergency suspension on a respondent when all of the following conditions are met
  - (a) The investigating officer has made a reasonable attempt to offer the respondent the opportunity for discussion, either in person or by telephone.
  - (b) The investigating officer recommends a sanction of suspension or expulsion.
  - (c) The chief administrative officer concludes, based on the available information, that the misconduct occurred and that the respondent's continued presence on campus meets one or more of the following conditions:

1. Would constitute a potential for serious harm to the respondent.
  2. Would constitute a potential for serious harm to others.
  3. Would pose a threat of serious disruption of university-run or university-authorized activities.
  4. Would constitute a potential for serious damage to university facilities or property.
- (d) In cases of sexual misconduct as defined in s. UWS 17.151, the chief administrative officer makes reasonable attempts to consult with the complainant and offer protective measures.
- (3) If the chief administrative officer determines that an emergency suspension is warranted under sub. (2), the chief administrative officer shall promptly have written notification of the emergency suspension delivered to the respondent. In cases of sexual misconduct, as defined in s. UWS 17.151, the written notification of the emergency suspension shall be delivered simultaneously to the complainant and the respondent. The chief administrative officer's decision to impose an emergency suspension shall be effective immediately when delivered to the respondent and is final.
- (4) Where an emergency suspension is imposed, the hearing on the underlying allegations of misconduct shall be held, either on or outside of university lands, within 21 days of the imposition of the emergency suspension, unless the respondent agrees to a later date.
- (5) An emergency suspension imposed in accordance with this section shall be in effect until the decision in the hearing on the underlying charges pursuant to s. UWS 17.12 or 17.153 is rendered or the chief administrative officer rescinds the emergency suspension. In no case shall an emergency suspension remain in effect for longer than 30 days unless the respondent agrees to a longer period.
- (6) If the chief administrative officer determines that none of the conditions specified in sub. (2) (c) are present, but that misconduct may have occurred, the case shall proceed in accordance with s. UWS 17.12 or 17.153, as applicable.

## UW Oshkosh Sexual Misconduct Grievance Process

In addition to UWS 17, UW Oshkosh has implemented supplemental disciplinary procedures for investigations and hearings involving sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence, or stalking, pursuant to federal law and UWS 17.03. Sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence, or stalking cases receive a prompt, fair, and impartial investigation and resolution. The process chart below provides a summary of what can be expected from the student disciplinary process.



As noted in UWO's Sexual Violence, Misconduct, and Harassment Policy, best efforts will be made by the University to complete a grievance process within (90) calendar days of the formal complaint. The grievance process may be extended for good cause.

## UW Oshkosh Employee Disciplinary Procedures

UW Oshkosh has three major categories of employees: faculty, academic staff, and university staff. Each of these categories of employees has distinct procedures for discipline and dismissal, which are provided below. In addition, UW Oshkosh has various types of at-will employees, including limited appointees, other employees-in-training, and student employees.

All employees may be subject to one or more of the following disciplinary responses:

- written reprimand
- unpaid suspension
- dismissal
- demotion
- revocation of responsibilities
- reassignment
- retraining

All University of Wisconsin System institutions develop individual procedures for discipline and dismissal based on the Wisconsin Administrative Code provisions and UW System policies. The discipline and dismissal procedures for Faculty and Academic Staff members are developed through shared governance processes. The discipline and dismissal procedures for University Staff employees are based upon standards developed under the State classified civil service requirements.

UW Oshkosh will ensure that all employee disciplinary procedures are compliant with federal law. More information regarding employee discipline can be found at <https://uwosh.edu/hr/> or by visiting or calling the Office of Human Resources, 920.424.1166, Dempsey Hall 328, 800 Algoma Blvd, Oshkosh, WI 54901.

### UWS Chapter 4, Wis. Admin. Code: Procedures for Faculty Dismissal and Discipline in Title IX Cases

#### *UWS 4.01 Dismissal for cause.*

- (1) Any faculty member having tenure may be dismissed only by the board and only for just cause and only after due notice and hearing. Any faculty member having a probationary appointment may be dismissed prior to the end of the faculty member's term of appointment only by the board and only for just cause and only after due notice and hearing. A decision not to renew a probationary appointment or not to grant tenure does not constitute a dismissal.
- (2) A faculty member is entitled to enjoy and exercise all the rights and privileges of a United States citizen, and the rights and privileges of academic freedom as they are generally understood in the academic community. This policy shall be observed in determining whether or not just cause for dismissal exists. The burden of proof of the existence of just cause for a dismissal is on the administration.
- (3) Faculty dismissal for cause and lesser discipline based on allegations of Title IX misconduct, as defined in s. 4.11, shall be governed by ss. 4.11 to UWS 4.24.

#### *UWS 4.015 Definitions.*

In this chapter:

- (1) "Clear and convincing evidence" means information that would persuade a reasonable person to have a firm belief that a proposition is more likely true than not true. It is a higher standard of proof than "preponderance of the evidence."
- (2) "Complaint" means an allegation against a faculty member reported to an appropriate university official.
- (3) "Consent" means words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to engage in sexual activity or other activity referenced in the definitions of sexual assault and sexual exploitation in this section. A person is unable to give consent if the person is in a state of incapacitation because of drugs, alcohol, physical or intellectual disability, or unconsciousness.
- (4) "Consult" or "consulting" means thoroughly reviewing and discussing the relevant facts and discretionary issues.
- (5) "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (6) "Domestic violence" means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of

Wisconsin, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Wisconsin as per ss. 813.12(1)(am) and 968.075, Stats.

- (6m) "Incapacitation" means the state of being unable to physically or mentally make informed rational judgments and effectively communicate, and may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.
- (7) "Preponderance of the evidence" means information that would persuade a reasonable person that a proposition is more probably true than not. It is a lower standard of proof than "clear and convincing evidence."
- (9) "Sexual assault" means an offense that meets any of the following definitions:
- (a) "Rape" means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of the complainant, without the consent of the complainant.
  - (b) "Fondling" means the touching of the private body parts of the complainant for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
  - (c) "Incest" means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law as provided in s. 944.06, Stats.
  - (d) "Statutory Rape" means sexual intercourse with a complainant who is under the statutory age of consent as provided in s. 948.02, Stats.
- (10) "Sexual Exploitation" occurs when an individual attempts, takes or threatens to take, nonconsensual sexual advantage of another person. Examples include, but are not limited to:
- (a) Engaging in the following conduct without the knowledge and consent of all participants:
    - i. Observing, recording, or photographing private body parts or sexual activity of the complainant.
    - ii. Allowing another person to observe, record, or photograph sexual activity or private body parts of the complainant.
    - iii. Otherwise distributing recordings, photographs, or other images of the sexual activity or private body parts of the complainant.
  - b) Masturbating, touching one's genitals, or exposing one's genitals in the complainant's presence without the consent of the complainant, or inducing the complainant to do the same.
  - c) Dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual activity.
  - d) Inducing incapacitation through deception for the purpose of making the complainant vulnerable to non-consensual sexual activity.
  - e) Coercing the complainant to engage in sexual activity for money or anything of value.



- f) Threatening distribution of any of the following, to coerce someone into sexual activity or providing money or anything of value:
  - 1) Photos, videos, or recordings depicting private body parts or sexual activity of the complainant.
  - 2) Other information of a sexual nature involving the complainant, including sexual history or sexual orientation.
- (9) Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:
  - a) An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct.
  - b) Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal "reasonable person" standards:
    - 1. The conduct is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity; or
    - 2. The conduct is so severe or pervasive, and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in a university sponsored or supported activity or creates an intimidating, hostile, or offensive academic, working, or program or activity related environment.
- (11) "Stalking" means engaging in a course of conduct directed at the complainant that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

*Subchapter II — Procedures for Faculty Dismissal and Discipline in Non-Title IX Cases*

*UWS 4.016 Subchapter II definitions.*

In this subchapter:

- (1) "Complainant" means any individual who is alleged to be the subject of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation as defined in this section and s. UWS 4.015.
- (2) "Sexual harassment" means conduct on the basis of sex that satisfies any of the following:
  - (a) Quid pro quo sexual harassment.
    - 1. An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct; or
    - 2. An employee of the institution either, explicitly or implicitly, conditions the provision of an academic, professional, or employment-related opportunity, aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
  - (b) Hostile environment sexual harassment.
    - 1. Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal "reasonable person" standard, is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity; or
    - 2. Unwelcome conduct of a sexual nature directed towards an individual that, when using the legal "reasonable person" standard, is so severe or pervasive and objectively offensive that it has the

purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in a university sponsored or supported activity.

*UWS 4.02 Responsibility for charges.*

- (1) Whenever the chancellor of an institution within the University of Wisconsin system receives a complaint against a faculty member which the chancellor deems substantial and which, if true, might lead to dismissal under s. UWS 4.01, the chancellor, or designee, shall within a reasonable time initiate an investigation and shall, prior to reaching a decision on filing charges, offer to discuss the matter informally with the faculty member. For complaints of sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the chancellor, or designee, shall appoint the Title IX Coordinator, or designee, to initiate an investigation in accordance with applicable policies. The chancellor, or designee, shall also offer to discuss the matter informally with the complainant, and provide information regarding rights under this chapter. Both the faculty member and the complainant shall have the right to be accompanied by an advisor of their choice at any meeting or proceeding that is part of the institutional disciplinary process. A faculty member may be dismissed only after receipt of a written statement of specific charges from the chancellor as the chief administrative officer of the institution and, if a hearing is requested by the faculty member, in accordance with the provisions of this chapter. If the faculty member does not request a hearing, action shall proceed along normal administrative lines but the provisions of ss. UWS 4.02, 4.09, and 4.10 shall still apply.
- (2) Any formal statement of specific charges for dismissal sent to a faculty member shall be accompanied by a statement of the appeal procedures available to the faculty member.
- (3) The statement of charges shall be served personally, by electronic means, or by certified mail, return receipt requested. If such service cannot be made within 20 days, service shall be accomplished by first class mail and by publication as if the statement of charges were a summons and the provisions of s. 801.11 (1) (c), Stats., were applicable. Such service by mailing and publication shall be effective as of the first insertion of the notice of statement of charges in the newspaper. If the statement of charges includes sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the statement shall be provided to the complainant upon request, except as may be precluded by applicable state or federal law.

*UWS 4.03 Standing faculty committee.*

The faculty of each institution shall provide a standing committee charged with hearing dismissal cases and making recommendations under this chapter. This standing faculty committee shall operate as the hearing agent for the board pursuant to s. 227.46 (4), Stats., and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence and transmit such record and summary along with its recommended findings of law and decision to the board according to s. UWS 4.07.

*UWS 4.04 Hearing.*

If the faculty member requests a hearing within 20 days of notice of the statement of charges (25 days if notice is by first class mail and publication), such a hearing shall be held not later than 20 days after the request except that this time limit may be enlarged by mutual written consent of the parties, or by order of the hearing committee. The request for a hearing shall be addressed in writing to the chairperson of the standing faculty committee created under s. UWS 4.03.

*UWS 4.05 Adequate due process.*

- (1) A fair hearing for a faculty member whose dismissal is sought under s. UWS 4.01 shall include the following:
  - (a) Service of written notice of hearing on the specific charges at least 10 days prior to the hearing;
  - (b) A right to the names of witnesses and access to documentary evidence upon the basis of which dismissal is sought;
  - (c) A right to be heard in the faculty member's defense;
  - (d) A right to an advisor, counsel, or other representatives, and to offer witnesses;

- (e) A right to confront and cross-examine adverse witnesses. If the complaint involves sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the hearing committee may reasonably restrict the faculty member or the complainant from questioning each other;
  - (f) A verbatim record of all hearings, which might be a sound recording, provided at no cost;
  - (g) Written findings of fact and decision based on the hearing record;
  - (h) Admissibility of evidence governed by s. 227.45 (1) to (4), Stats.
- (2) If the complaint involves sexual harassment, sexual assault, dating violence, domestic violence, or stalking, the complainant shall have all the rights provided to the faculty member in sub. (1) (a) to (h), except as may be precluded by applicable state or federal law.

*UWS 4.06 Procedural guarantees.*

- (1) Any hearing held shall comply with the requirements set forth in s. UWS 4.05. The following requirements shall also be observed:
- (a) The burden of proof of the existence of just cause is on the administration or its representatives;
  - (am) For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the standard of proof shall be a preponderance of the evidence;
  - (b) No faculty member who participated in the investigation of allegations leading to the filing of a statement of charges, or in the filing of a statement of charges, or who is a material witness shall be qualified to sit on the committee in that case;
  - (c) The hearing shall be closed unless the faculty member under charges requests an open hearing, in which case it shall be open (see subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies);
  - (d) The faculty hearing committee may, on motion of either party, and, if the complaint involves sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, on the motion of the complainant, disqualify any one of its members for cause by a majority vote. If one or more of the faculty hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of other members of the faculty equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the rules and procedures adopted by the faculty establishing the standing committee under s. UWS 4.03;
  - (e) The faculty hearing committee shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges;
  - (f) If the faculty hearing committee requests, the chancellor shall provide legal counsel after consulting with the committee concerning its wishes in this regard. The function of legal counsel shall be to advise the committee, consult with them on legal matters, and such other responsibilities as shall be determined by the committee within the provisions of the rules and procedures adopted by the faculty of the institution in establishing the standing faculty committee under s. UWS 4.03;
  - (g) If a proceeding on charges against a faculty member not holding tenure is not concluded before the faculty member's appointment would expire, the faculty member may elect that such proceeding be carried to a final decision. Unless the faculty member so elects in writing, the proceeding shall be discontinued at the expiration of the appointment;
  - (h) If a faculty member whose dismissal is sought has requested a hearing, discontinuance of the proceeding by the institution is deemed a withdrawal of charges and a finding that the charges were without merit;
  - (i) Nothing in this section shall prevent the settlement of cases by mutual agreement between the administration and the faculty member, with board approval, at any time prior to a final decision by the board;
  - (j) Adjournment shall be granted to enable the parties, including the complainant, to investigate evidence as to which a valid claim of surprise is made.

*UWS 4.07 Recommendations to the chancellor and the regents.*

- (1) The faculty hearing committee shall send to the chancellor and to the faculty member concerned, as soon as practicable after conclusion of the hearing, a verbatim record of the testimony and a copy of its report, findings, and recommendations. The committee may determine that while adequate cause for discipline exists, some sanction less severe than dismissal is more appropriate. Within 20 days after receipt of this material the chancellor shall review it and afford the faculty member an opportunity to discuss it. The chancellor shall prepare a written recommendation within 20 days following the meeting with the faculty member unless the chancellor's proposed recommendation differs substantially from that of the committee. If the chancellor's proposed recommendations differ substantially from those of the faculty hearing committee, the chancellor shall promptly consult the faculty hearing committee and provide the committee with a reasonable opportunity for a written response prior to forwarding the recommendation. If the recommendation is for dismissal, the recommendation shall be submitted through the president of the system to the board. A copy of the faculty hearing committee's report and recommendations shall be forwarded through the president of the system to the board along with the chancellor's recommendation. A copy of the chancellor's recommendation shall also be sent to the faculty member concerned and to the faculty committee. For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the complainant shall have all rights provided to the faculty member in this paragraph, including the right to receive a copy of the chancellor's recommendation, except as may be precluded by applicable state or federal law.
- (2) Disciplinary action other than dismissal may be taken by the chancellor, after affording the faculty member an opportunity to be heard on the record, except that, upon written request by the faculty member, such action shall be submitted as a recommendation through the president to the board together with a copy of the faculty hearing committee's report and recommendation. For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the complainant shall have all the rights provided to the faculty member in this paragraph.

*UWS 4.08 Board review.*

- (1) If the chancellor recommends dismissal, the board shall review the record before the faculty hearing committee and provide an opportunity for filing exceptions to the recommendations of the hearing committee or chancellor, and for oral arguments, unless the board decides to drop the charges against the faculty member without a hearing or the faculty member elects to waive a hearing. This hearing shall be closed unless the faculty member requests an open hearing (see subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies). For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the complainant shall have the same opportunity for filing exceptions to the recommendations of the hearing committee or chancellor, and for oral arguments, as the faculty member.
- (2) If, after the hearing, the board decides to take action different from the recommendation of the faculty hearing committee and/or the chancellor, then before taking final action the board shall consult with the faculty hearing committee and/or the chancellor, as appropriate.
- (3) If a faculty member whose dismissal is sought does not request a hearing pursuant to s. UWS 4.04 the board shall take appropriate action upon receipt of the statement of charges and the recommendation of the chancellor.
- (4) For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the faculty member and complainant shall be simultaneously notified of the board's final decision.

*UWS 4.09 Suspension from duties.*

Pending the final decision as to dismissal, the faculty member shall not normally be relieved of duties; but if, after consultation with appropriate faculty committees the chancellor finds that substantial harm to the institution may result if the faculty member is continued in the faculty member's position, the faculty member may be relieved immediately of the faculty member's duties, but the faculty member's pay shall continue until the board makes its decision as to

dismissal, unless the chancellor also makes the determinations set forth in s. UWS 7.06 (1) in which case the suspension from duties may be without pay and the procedures set forth in s. UWS 7.06 shall apply.

*UWS 4.10 Date of dismissal.*

A decision by the board ordering dismissal shall specify the effective date of the dismissal.

*Subchapter III — Procedures for Faculty Dismissal and Discipline in Title IX Cases*

*UWS 4.12 Subchapter III definitions.*

In this subchapter:

- (1) "Complainant" means any individual who is alleged to be the subject of Title IX misconduct, as defined in this section.
- (2) "Education program or activity" means, for purposes of Title IX misconduct only, locations, events, or circumstances at which the university exercised substantial control over both the faculty member and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the university.
- (3) "Formal complaint" means, for the purposes of Title IX complaint only, a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking against a faculty member and requesting that the university investigate the allegations. At the time of filing of the formal complaint, the complainant shall be participating in or attempting to participate in an educational program or activity. A formal complaint may be filed in person, by mail, or electronic mail, or any other method designated by the university. A formal complaint shall include a physical or digital signature of the complainant or the Title IX Coordinator.
- (4) "Respondent" means an individual who has been reported to be the perpetrator of Title IX misconduct as defined in this section.
- (5) "Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:
  - (a) An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct;
  - (b) Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal "reasonable person" standard:
    1. Is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity.
    2. The conduct is so severe, pervasive, or objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in an institution's education program or activity, or creates an intimidating, hostile, or offensive academic, working, or program or activity related environment.
- (6) "Title IX misconduct" means sexual assault, stalking, dating violence, or domestic violence, as defined in s. UWS 4.015 and sexual harassment as defined in sub.(5).

*UWS 4.12 Dismissal for cause or lesser discipline for Title IX misconduct.*

- (1) The board may dismiss a faculty member for cause, or impose lesser discipline on a faculty member, for Title IX misconduct as defined in s. UWS 4.11.
- (2) Title IX misconduct allegations against faculty shall follow the disciplinary procedure in ss. UWS 4.11 to 4.24. The board may dismiss a faculty member having tenure only for just cause and may otherwise discipline a faculty member having tenure only after due notice and hearing. The board may dismiss a faculty member having a probationary appointment prior to the end of the faculty member's term of appointment only for just cause and may otherwise discipline the faculty member only after due notice and hearing.

- (3) A faculty member is entitled to enjoy and exercise all the rights and privileges of a United States citizen, and the rights and privileges of academic freedom as they are generally understood in the academic community. These rights and privileges shall be observed in determining whether or not just cause for dismissal, or grounds for other discipline, exists.
- (4) The faculty member is presumed to be not responsible for the alleged Title IX misconduct until a final decision regarding responsibility is made at the conclusion of the disciplinary process. The burden of proof of the existence of just cause for a dismissal, or of grounds for other discipline, is on the university administration.

*UWS 4.13 Application of Title IX misconduct disciplinary procedure.*

This disciplinary procedure for Title IX misconduct will be used only when all of the following requirements are met:

- (1) There is a formal Title IX complaint alleging Title IX misconduct on the basis of sex.
- (2) The conduct occurred in the United States.
- (3) The conduct occurred within a university's education program or activity.
- (4) The complainant shall be participating in or attempting to participate in the education program or activity of the university at the time of filing the complaint.
- (5) The complainant or Title IX coordinator has submitted a formal Title IX complaint.

*UWS 4.14 Dismissal of formal Title IX complaint and related appeal.*

- (1) The university shall dismiss a formal Title IX complaint consisting of allegations that meet any of the following:
  - (a) The alleged conduct would not constitute Title IX misconduct if proved.
  - (b) The alleged conduct did not occur in a university program or activity.
  - (c) The alleged conduct did not involve actions against someone physically located in the United States.
- (2) The university may dismiss a formal Title IX complaint when any of the following applies:
  - (a) The complainant formally requests in writing to withdraw the formal Title IX complaint.
  - (b) The faculty member is no longer employed by the university.
  - (c) Specific circumstances prevent the university from gathering evidence sufficient to reach a determination on the allegations contained in the formal Title IX complaint.
- (3) The university generally shall decide whether to dismiss a formal Title IX complaint within 30 days of receipt of the formal Title IX complaint, but the university may extend that timeline as necessary. If a formal Title IX complaint is dismissed, then the university shall provide notice of the dismissal and reasons therefore to the faculty member and complainant in writing.
- (4) Within 20 days of receipt of the notice of dismissal, the complainant may appeal the dismissal by filing a written appeal with the chancellor. The complainant may appeal on any of the following bases:
  - (a) Procedural irregularity that affected the outcome of the matter.
  - (b) New evidence that was not reasonably available at the time of the dismissal that could affect the outcome of the matter.
  - (c) The university employee making the dismissal decision had a conflict of interest or bias for the faculty member or against the complainant, or against complainants generally, that affected the dismissal decision.
- (5) The chancellor shall provide the faculty member and complainant the opportunity to provide a written statement supporting or challenging the dismissal. The chancellor shall simultaneously issue a decision to the complainant and the faculty member within 30 days of receipt of a written appeal. The chancellor's decision shall include the chancellor's rationale for the decision and shall be final.
- (6) The dismissal of a formal Title IX complaint does not preclude the university from otherwise pursuing discipline against the faculty member under other administrative rules or university policies.

*UWS 4.15 Investigation of Title IX misconduct allegations.*

- (1) Unless the university dismisses a formal Title IX complaint, the university shall appoint an investigator to conduct an investigation of the allegations in the formal Title IX complaint.



- (2) The investigator shall provide the faculty member and the complainant with a notice of investigation. The notice shall include all of the following:
  - (a) The grievance process, including informal resolution options.
  - (b) The allegations of Title IX misconduct with sufficient detail for the faculty member to prepare a response to the allegations, including the identity of the complainant as well as the date and location of the incident if available.
  - (c) A statement affirming the faculty member is presumed not responsible for the alleged violation.
  - (d) The faculty member and complainant have the right to an advisor of their choice.
  - (e) The faculty member and complainant have the right to inspect and review the evidence.
  - (f) Information about any code of conduct rules which prohibit the faculty member or the complainant from knowingly making false statements or submitting false information during the disciplinary process.
- (3) The faculty member and complainant shall receive amended notice of investigation any time additional charges are added during the course of an investigation. Formal Title IX complaints involving more than one complainant or respondent may be consolidated if they arise out of the same facts or circumstances.
- (4) The university's investigator shall do all of the following:
  - (a) Provide both the faculty member and the complainant an equal opportunity to provide witnesses, including fact and expert witnesses, who may be interviewed by the investigator, and other inculpatory and exculpatory evidence.
  - (b) Not restrict the ability of either the faculty member or complainant to discuss the allegations under investigation or to gather and present relevant evidence.
  - (c) Provide the faculty member and complainant the same opportunity to be accompanied by an advisor of their choice during meetings relating to the investigation but may limit the participation by the advisor so long as those limits are applied equally.
  - (d) Provide both the faculty member and the complainant an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal Title IX complaint, including evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a faculty member, complainant, or other source, so that the faculty member and complainant can meaningfully respond to the evidence prior to conclusion of the investigation.
- (5) As part of its investigation and disciplinary process, the university may not access, consider, disclose, or otherwise use a faculty member's or complainant's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the faculty member or complainant, unless the university obtains the faculty member's or complainant's voluntary, written consent to do so in relation to the investigation and disciplinary process.
- (6) The university's investigator generally shall complete the investigation and issue a final investigative report within 90 days of the investigator's appointment. However, the investigator may extend the investigation's time frame where circumstances warrant.

*UWS 4.16 Review of evidence.*

- (1) Prior to completion of the final investigative report, the investigator shall send to the faculty member and complainant and their respective advisors, if any, the evidence gathered during the investigation for inspection and review by the faculty member and the complainant. The evidence may be provided in an electronic format or a hard copy. The evidence provided includes evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from the faculty member, complainant or other source, to permit the faculty member and complainant to meaningfully respond to the evidence prior to conclusion of the investigation.
- (2) The faculty member and the complainant shall be provided at least 10 days to submit a written response to the evidence. The investigator shall consider any written responses prior to completion of the final investigative report.



*UWS 4.17 Final investigative report.*

The investigator shall create a final investigative report that fairly summarizes relevant evidence and send the report to the faculty member, the complainant, and their advisors, if any, for their review and response at least 10 days prior to a hearing. The written report shall be delivered simultaneously to the faculty member and complainant. The university shall, upon receipt of the final investigative report, proceed to schedule a live hearing on the matter. A hearing shall be conducted unless both the faculty member and the complainant waive, in writing, the right to such a hearing.

*UWS 4.18 Standing faculty committee and hearing examiner.*

- (1) The chancellor of each university, in consultation with faculty representatives, shall adopt policies providing for the designation of a Title IX conduct hearing examiner. The chancellor shall select a hearing examiner pursuant to these policies to hear faculty dismissal and discipline cases. Additionally, the faculty of each university shall provide a standing hearing committee charged with hearing faculty dismissal and discipline cases. The chancellor shall appoint the presiding member of the hearing committee, who may be a hearing examiner. The university shall decide whether a hearing examiner or a hearing committee will hear the matter.
- (2) The hearing committee or the hearing examiner described in sub. (1) shall conduct the hearing, make a verbatim record of the hearing, and transmit such record along with factual findings and decision to the chancellor. The hearing shall be held not later than 45 days after completion of the final investigative report except that this time limit may be extended by the hearing committee or the hearing examiner.

*UWS 4.19 Adequate due process.*

- (1) A fair hearing for a faculty member against whom dismissal or other discipline is sought shall include all of the following:
  - (a) Service of written notice of a live hearing on the allegations in the formal complaint at least 10 days prior to the hearing.
  - (b) A right to the names of witnesses and of access to documentary and other evidence upon the basis of which dismissal or other discipline is sought.
  - (c) A right to be heard in the faculty member's defense.
  - (d) A right to an advisor, counsel, or other representatives, and to offer witnesses. The faculty member's advisor or counsel may ask all witnesses relevant questions and follow-up questions, including those challenging credibility. Credibility determinations, however, may not be made based on a person's status as a complainant, respondent, or witness. If the faculty member does not have an advisor, the university shall provide the faculty member, without charge, an advisor of the university's choice to conduct cross-examination on behalf of the faculty member. The advisor may be an attorney.
  - (e) A right to confront and cross-examine adverse witnesses. The faculty member's or complainant's advisor shall conduct cross examination directly, orally, and in real time. The faculty member and the complainant may not personally conduct cross examination. If the faculty member, the complainant, or a witness does not submit to cross-examination at the hearing, the hearing committee or the hearing examiner may not rely on any statement of the faculty member, complainant, or witness in reaching its findings and recommendations. However, the hearing committee or hearing examiner may not draw a negative inference in reaching its findings and recommendations based solely on the absence of a faculty member, complainant, or witness from the hearing or refusal to answer cross-examination or other questions.
  - (f) A verbatim record of all hearings, which might be a sound recording, made available at no cost for inspection and review.
  - (g) Written findings of fact and recommendations based on the hearing record. The written findings of fact and recommendations shall include all of the following:
    1. Identification of the allegations potentially constituting Title IX misconduct
    2. A description of the procedural steps taken from the receipt of the formal Title IX complaint through the hearing committee's or hearing examiner's completion of written findings and recommendations, including

- any notifications to the faculty member and the complainant, interviews with the faculty member, the complainant, and witnesses, site visits, methods used to gather evidence, and hearings held.
3. Conclusions regarding the application of the university's conduct rules and policies to the facts; a statement of, and rationale for, the result as to each allegation, including a recommendation regarding responsibility, any disciplinary sanction recommended to be imposed, and whether remedies designed to restore or preserve equal access to the university's educational program or activity will be provided to the complainant.
  4. The university's procedures and permissible bases for complainant and employee to appeal.
- (h) Admissibility of evidence is governed by s. 227.45 (1) to (4), Stats. Only relevant questions may be asked of the faculty member, the complainant, and any witnesses. The hearing committee or hearing examiner shall determine whether a question is relevant and explain the decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions or evidence are offered to prove that someone other than the faculty member committed the conduct alleged by the complainant, or unless the questions or evidence concern specific incidents of the complainant's prior sexual behavior with the faculty member and are offered to prove consent.
- (i) The hearing may be conducted with all participants physically present in the same location, or at the hearing committee's or hearing examiner's discretion, any or all participants may appear at the hearing virtually, with technology enabling the participants simultaneously to see and hear each other. Upon the faculty member's request, the university shall provide for the hearing to occur with faculty member and complainant located in separate rooms with technology enabling the hearing committee or hearing examiner, the faculty member, and the complainant to simultaneously see and hear witnesses answering questions.
- (2) The complainant shall have all the rights provided to the faculty member in sub. (1) (a) to (i).

*UWS 4.20 Procedural guarantees.*

- (1) Any hearing held shall comply with the requirements set forth in s. UWS 4.19. All of the following requirements shall be observed:
- (a) The burden of proof of the existence of just cause to support dismissal, or of grounds to support other discipline, is on the university administration.
  - (am) The standard of proof shall be a preponderance of the evidence.
  - (b) No faculty member who participated in the investigation of a formal Title IX complaint, or who is a material witness, shall be qualified to sit on the hearing committee addressing that complaint. No university employee or other person who participated in the investigation of a formal Title IX complaint, or who is a material witness, shall be qualified to serve as the hearing examiner addressing that complaint.
  - (c) The hearing shall be closed unless the faculty member or the complainant requests an open hearing, in which case it shall be open (see subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies).
  - (d) The hearing committee may, on motion of the complainant or the faculty member, disqualify any one of its members for cause by a majority vote. If one or more of the hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of other members of the faculty equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the rules and procedures adopted by the faculty establishing the standing committee under this rule.
  - (e) The hearing committee or the hearing examiner may not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges unless the person holding the privilege has waived it. The hearing committee or the hearing examiner shall follow the evidentiary rules in s. UWS 4.19(1)(h).
  - (f) If the hearing committee requests, the chancellor shall provide legal counsel after consulting with the hearing committee concerning its wishes in this regard. The function of legal counsel shall be to advise the hearing committee, consult with them on legal matters, and such other responsibilities as shall be determined by the

hearing committee within the provisions of the rules and procedures adopted by the faculty of the institution in establishing the standing faculty committee under this policy.

- (g) If the Title IX disciplinary process described in ss. UWS 4.11 to 4.24 against a faculty member not holding tenure is not concluded before the faculty member's appointment would expire, the faculty member may elect that such process be carried to a final decision. Unless the faculty member so elects in writing, the process shall be discontinued at the expiration of the appointment.
- (h) Nothing in this section shall prevent the settlement of cases by mutual agreement between the university administration, the complainant, and the faculty member.
- (i) Delay or adjournment of the hearing for good cause may be granted. Good cause includes the need for any of the following:
  - 1. To investigate evidence as to which a valid claim of surprise is made.
  - 2. To ensure the presence of the faculty member or the complainant, an advisor, or a witness.
  - 3. To provide language assistance or accommodation for disabilities.
  - 4. To accommodate concurrent law enforcement activity.

*UWS 4.21 Hearing committee or hearing examiner findings and recommendations to the chancellor.*

The hearing committee or hearing examiner shall simultaneously send to the chancellor, to the complainant, and to the faculty member concerned, within 30 days after the conclusion of the hearing, or otherwise as soon as practicable, a verbatim record of the testimony and a copy of its factual findings and recommendations.

*UWS 4.22 Chancellor's decision.*

- (1) Within 20 days after receipt of the record and findings and recommendations from the hearing committee or the hearing examiner the chancellor shall review those materials and afford the faculty member and the complainant an opportunity to discuss them. The chancellor's decision shall be based on the record created before the hearing committee or the hearing examiner. The chancellor shall prepare a written decision within 20 days after completing the meetings with the faculty member and the complainant unless the chancellor's proposed decision differs substantially from the recommendations of the hearing committee or hearing examiner. If the chancellor's proposed decision differs substantially from those recommendations, the chancellor shall promptly consult the hearing committee or the hearing examiner and provide the committee or the hearing examiner with a reasonable opportunity for a written response prior to making a decision.
- (2) The chancellor may adopt the hearing committee or hearing examiner's findings and recommendations as the chancellor's decision. The chancellor shall explain in the decision any substantial differences from those findings and recommendations.
- (3) The chancellor's decision shall be simultaneously sent to the faculty member concerned, the complainant, and to the hearing committee or the hearing examiner. The chancellor's decision also shall be submitted through the president of the system to the board, accompanied by a copy of the hearing committee's or hearing examiner's findings and recommendations. The chancellor's decision and the findings and recommendations shall be forwarded through the president of the system to the board for its review.

*UWS 4.23 Appeal to board.*

- (1) The board shall provide the faculty member and the complainant an opportunity for filing exceptions to the chancellor's decision, and for oral arguments, unless the faculty member and the complainant waive in writing the right to file exceptions and for oral arguments. The hearing of any oral arguments shall be closed unless the faculty member, or the complainant requests an open hearing.

Note: See subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies

- (2) The faculty member or complainant may file written exceptions to the chancellor's decision, and the board shall conduct its review of the chancellor's decision, on any of the following bases:
  - (a) Procedural irregularity that affected the outcome of the matter.
  - (b) New evidence that was not reasonably available at the time of the live hearing that could affect the outcome of the matter.
  - (c) Conflict of interest or bias for or against the faculty member or complainant, or against complainants and respondents generally, by the Title IX coordinator, investigator, the chancellor, the hearing examiner, or the hearing committee members that affected the outcome.
- (3) If the board decides to take action different from the decision of the chancellor, then before taking final action the board shall consult with the chancellor.
- (4) The board shall make its decision based on the record created before the hearing committee or hearing examiner. Within 60 days of receipt of the chancellor's decision, or otherwise as soon as practicable, the board shall simultaneously notify the faculty member and the complainant of the board's final decision, which shall include the board's rationale for its decision.
- (5) A decision by the board ordering dismissal of a faculty member shall specify the effective date of the dismissal.

#### *UWS 4.24 Suspension from duties.*

Pending the final decision on dismissal or other discipline, the faculty member may not normally be relieved of duties; but if, after consultation with appropriate faculty committees the chancellor finds that substantial harm to the university may result if the faculty member is continued in the faculty member's position, the faculty member may be relieved immediately of the faculty member's duties, but the faculty member's pay shall continue until a final decision as to dismissal, unless the chancellor also makes the determinations set forth in s. UWS 7.06 in which case the suspension from duties may be without pay and the procedures set forth in s. UWS 7.06 shall apply.

### **UWS Chapter 7, Wis. Admin. Code: Procedures for Faculty Dismissal in Special Cases**

#### *UWS 7.01 Declaration of Policy*

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

#### *UWS 7.015 Definitions*

- (1g) "Affected party" means any student, employee, visitor, or an individual participating in a university program or activity, who is a victim of a faculty member's serious criminal misconduct.
- (1m) "Clear and convincing evidence" means information that would persuade a reasonable person to have a firm belief that a proposition is more likely true than not true. It is a higher standard of proof than "preponderance of the evidence."
- (3) "Complaint" means an allegation against a faculty member reported to an appropriate university official.
- (4) "Consult" or "consulting" means thoroughly reviewing and discussing the relevant facts and discretionary issues.
- (5) "Preponderance of the evidence" means information that would persuade a reasonable person that a proposition is more probably true than not. It is a lower standard of proof than "clear and convincing evidence."

(6) “Serious criminal misconduct” is defined in s. UWS 7.02.

*UWS 7.02 Serious Criminal Misconduct*

(1) In this chapter, “serious criminal misconduct” means:

- (a) Pleading guilty or no contest to, or being convicted of a felony, in state or federal court, where one or more of the conditions in par. (b), (c), (d) or (e) are present, and the felony involves any of the following:
    - 1. Causing serious physical injury to another person.
    - 2. Creating a serious danger to the personal safety of another person.
    - 3. Sexual assault.
    - 4. Theft, fraud, or embezzlement.
    - 5. Criminal damage to property.
    - 6. Stalking or harassment.
  - (b) A substantial risk to the safety of members of the university community or others is posed.
  - (c) The university’s ability, or the ability of the faculty member’s colleagues, to fulfill teaching, research or public service missions is seriously impaired.
  - (d) The faculty member’s fitness or ability to fulfill the duties of the faculty member’s position is seriously impaired.
  - (e) The opportunity of students to learn, do research, or engage in public service is seriously impaired.
- (2) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, shall not constitute serious criminal misconduct.
- (3) Except as otherwise expressly provided, a faculty member who has engaged in serious criminal misconduct shall be subject to the procedures set forth in ss. UWS 7.03 to 7.06.
- (4) Any act required or permitted by ss. UWS 7.03 to 7.06 to be done by the chancellor may be delegated to the provost or another designee pursuant to institutional policies approved by the Board of Regents under s. UWS 2.02.

*UWS 7.03 Dismissal for Cause*

- (1) Any faculty member having tenure may be dismissed only by the board and only for just cause and only after due notice and hearing. Any faculty member having a probationary appointment may be dismissed prior to the end of the term of appointment only by the board and only for just cause and only after due notice and hearing.
- (2) Just cause for dismissal includes, but is not limited to, serious criminal misconduct, as defined in s. UWS 7.02.

*UWS 7.04 Reporting Responsibility*

Any faculty member who is charged with, pleads guilty or no contest to, or is convicted of a felony of a type listed in s. UWS 7.02 (1) (a), in state or federal court, shall immediately report that fact to the chancellor.

*UWS 7.05 Expedited Process*

- (1) Whenever the chancellor of an institution within the University of Wisconsin System receives a report under s. UWS 7.04 or other credible information that a faculty member has pleaded guilty or no contest to, or has been convicted of a felony of a type listed in s. UWS 7.02 (1) (a), in state or federal court, the chancellor shall:
- (a) Within 3 working days of receipt of the report or information, inform the faculty member of its receipt and, after consulting with appropriate institutional governance representatives, appoint an investigator to investigate the report or information and to advise the chancellor as to whether to proceed under this section or ch. UWS 4. If the university knows the identity of an affected party, the university shall make a reasonable attempt to notify the affected party of the report or information at the same time as the faculty member.
  - (b) Upon appointing an investigator and notifying the faculty member, afford the faculty member 3 working days in which to request that the investigator be disqualified on grounds of lack of impartiality or other cause. In the event that the chancellor determines that a request for disqualification should be granted, the chancellor shall, within 2 working days of the determination, appoint a different investigator. The faculty member shall have the opportunity to request that any second or subsequent investigators be disqualified on grounds of lack of impartiality or other cause.

- (2) The investigator shall complete and file a report with the chancellor not later than 10 working days following the investigator's appointment.
- (3) Within 3 working days of receipt of the investigator's report, the chancellor shall consult with appropriate institutional governance representatives and decide whether to seek dismissal of the faculty member pursuant to this chapter, to seek dismissal of the faculty member pursuant to ch. UWS 4, to seek an alternative disciplinary sanction, or to discontinue the proceedings as follows:
  - (a) If the chancellor decides to seek dismissal of the faculty member pursuant to this chapter, the chancellor shall file charges within 2 working days of reaching the decision.
  - (b) If the chancellor decides to seek dismissal of the faculty member pursuant to ch. UWS 4, the chancellor shall file charges and proceed in accordance with the provisions of that chapter and implementing institutional policies. If, during the course of such proceedings under ch. UWS 4, the chancellor receives a report under s. UWS 7.04 or other credible information that the faculty member has pleaded guilty or no contest to or has been convicted of a felony of a type listed in s. UWS 7.02 (1) (a), and one or more of the conditions listed in s. UWS 7.02 (1) (b) through (e) are present, the chancellor may, at that point, elect to follow the procedures for dismissal pursuant to this chapter.
  - (c) If the chancellor decides to seek an alternative disciplinary sanction, the procedures under chs. UWS 4 and 6, and implementing institutional policies, shall be followed.
- (4) If charges seeking dismissal are filed under sub. (3) (a), the faculty member shall be afforded a hearing before the institutional standing committee is charged with hearing dismissal cases and making recommendations under s. UWS 4.03. The hearing shall provide the procedural guarantees enumerated under ss. UWS 4.05 to 4.06, except that the hearing shall be concluded, and written findings and a recommendation to the chancellor shall be prepared, within 15 working days of the filing of charges.
- (5) Within 3 working days of receipt of the findings and recommendation of the committee under sub. (4), the chancellor shall prepare a written recommendation on the matter.
  - (a) If the recommendation is for dismissal, the chancellor shall transmit it to the board for review.
  - (b) Disciplinary action other than dismissal may be taken by the chancellor, whose decision shall be final, unless the board at its option grants a review of the record at the request of the faculty member. The faculty member shall receive a copy of the chancellor's final decision. If the identity of an affected party is known to the university, the university shall make a reasonable attempt to provide the affected party a copy of the chancellor's final decision at the same time as the faculty member.
- (6) Upon receipt of the chancellor's recommendation, the full board shall review the record before the institutional hearing committee and shall offer an opportunity for filing exceptions to the recommendation as well as for oral argument. The full board shall issue its decision on the matter within 15 working days of receipt of the chancellor's recommendation. If the university knows the identity of an affected party, the board shall make a reasonable attempt to notify the affected party of its decision at the same time as the faculty member.
- (7) If a faculty member whose dismissal is sought under sub. (3) (a) does not proceed with the hearing before the institutional hearing committee as provided in sub. (4), the board shall take appropriate action within 10 working days of receipt of the statement of charges and the recommendation of the chancellor.
- (8) The administration or its representatives shall have the burden of proof to show that just cause exists for dismissal under this chapter. The administration shall demonstrate by clear and convincing evidence that the faculty member engaged in serious criminal misconduct, as defined in s. UWS 7.02.
- (9) The chair of the faculty hearing body, subject to the approval of the chancellor, may extend the time limits set forth in this section if the parties are unable to obtain, in a timely manner, relevant and material testimony, physical evidence or records, or where due process otherwise requires.



*UWS 7.06 Temporary Suspension Without Pay*

- (1) The chancellor, after consulting with appropriate faculty governance representatives, may suspend a faculty member from duties without pay pending the final decision as to the faculty member's dismissal where:
  - (a) The faculty member has been charged with a felony of a type listed in s. UWS 7.02 (1) (a) and the chancellor, after following the provisions of s. UWS 7.05 (1) through (3), finds, in addition, that there is a substantial likelihood 1) that one or more of the conditions listed in s. UWS 7.02 (1) (b) through (e) are present, and 2) that the faculty member has engaged in the conduct as alleged; or
  - (b) The faculty member is unable to report for work due to incarceration, conditions of bail or similar cause; or
  - (c) The faculty member has pleaded guilty or no contest to or been convicted of a felony of a type listed in s. UWS 7.02 (1) (a) and one or more of the conditions listed in s. UWS 7.02 (1) (b) through (e) are present.
- (2) If the chancellor finds that the conditions in sub. (1) are present, he or she shall immediately notify the faculty member, in writing, of the intent to impose a suspension without pay, and shall, within 2 working days, provide the faculty member with an opportunity to be heard with regard to the matter. The faculty member may be represented by counsel or another at this meeting.
- (3) If, after affording the faculty member the opportunity to be heard, the chancellor determines to suspend without pay, the chancellor shall inform the faculty member of the suspension, in writing. The chancellor's decision to suspend without pay under this section shall be final, except that:
  - (a) If the chancellor later determines that the faculty member should not be dismissed, the chancellor may discontinue the proceedings, or may recommend a lesser penalty to the board, and, except as provided in par. (c), shall order the payment of back pay for any period of the suspension for which the faculty member was willing and able to report for work.
  - (b) If the board later determines that the faculty member should not be dismissed, the board may order a lesser penalty and shall order the payment of back pay for any period of the suspension for which the faculty member was willing and able to report for work.
  - (c) If the chancellor or board later determines, under par. (a) or (b), to recommend or impose as a lesser penalty the suspension of the faculty member without pay, then any period of suspension without pay so recommended or ordered shall be offset by the period of any suspension without pay actually served by the faculty member.
- (4) If, after affording the faculty member the opportunity to be heard, the chancellor determines that the conditions in sub. (1) are not present or that a suspension without pay is otherwise not warranted, the provisions of s. UWS 4.09 shall apply.

## **UW Oshkosh Faculty Discipline and Dismissal for Cause**

*FAC 9.C.1. UWS 6.01 {Complaints} of the Wisconsin Administrative Code, Rules of the Board of Regents.*

**UWS 6.01 Complaints.**

The faculty of each institution, with the approval of the Chancellor, shall establish rules and procedures to deal with allegations by the administration, students, academic staff members, other faculty members, classified staff members, or members of the public concerning conduct by a faculty member which violates university rules or policies, or which adversely affects the faculty member's performance of his/her obligation to the university but which allegations are not serious enough to warrant dismissal proceedings under ch. UWS 4. Such rules and procedures shall include, but not necessarily be limited to, the following:

- (1) Review of and administrative action on the complaint by the Chancellor. Administrative action may include dismissing the complaint, invoking an appropriate disciplinary action, or referring the complaint to the standing faculty committee created under sub. (2).



(2) Provision for a hearing before a standing faculty committee selected by the faculty of each institution in such manner as they shall determine. Such a hearing shall be held at the request of the Chancellor or, if the Chancellor invokes a disciplinary action, at the request of the faculty member concerned.

(3) Guarantee of adequate due process to include, but not limited to, written notification of the complaint, fair and complete hearing procedures, written statement of findings, transmittal of findings to the faculty member involved and appropriate administrative officials within a reasonable period of time, and prohibition of further jeopardy for the same alleged misconduct after a final decision.

(4) Delineation of the powers of the faculty committee to make recommendations to the Chancellor concerning disciplinary action, to recommend dismissal of the complaint, or to recommend referral of the complaint to the appropriate department or administrative officer.

(5) The decision by the Chancellor on the recommendations of the committee, or on the complaint in the absence of committee recommendation, shall be final except that the board at its option might grant a review of the record.

History: Cr. Register, January 1975, No. 229, eff. 2-1-75.

#### *FAC 9.C.2. Definition and Purpose.*

A formal complaint expresses an objection to perceived misconduct and seeks disciplinary action against the offender. The purpose of this procedure is to provide a means by which administrators, students, academic staff members, other faculty members, classified staff members or members of the general public may bring a complaint against the conduct of a faculty member.

#### *FAC 9.C.3. Complaints Against Faculty Members.*

Complaints may be brought against faculty members for conduct which violates university rules or policies, or which adversely affects the faculty member's performance of his/her obligation to the university, but which allegations are not serious enough to warrant dismissal proceedings under UWS 4. The Chancellor shall determine after receiving the complaint whether it is to be considered under this part or the section of these rules titled "Faculty Dismissal."

##### **(1) Form of Complaint.**

Complaints shall be written and signed by the complainant. They shall identify the acts which allegedly violate university rules or policies or breach the faculty member's obligations, and they shall specify the rules or policies which have allegedly been violated or the obligations allegedly breached.

##### **(2) Complaint Procedures.**

(a) Upon receiving a complaint, the Chancellor shall determine whether it warrants further consideration. If the Chancellor decides to reject the complaint at this stage, he or she shall so notify the complainant and shall explain the reasons why the complaint has been rejected. If the Chancellor decides to accept the complaint, he or she shall send a copy of the complaint to the faculty member it names and shall request a written response to the complaint within ten working days.

(b) Upon receipt of the faculty member's response or after ten working days have passed without a response, the Chancellor may dismiss the complaint or initiate a formal review of it. In the formal review, if any, the Chancellor shall examine all pertinent documents and interview all persons likely to have knowledge about the conduct in question and in general shall afford both the complainant and the respondent full and fair opportunity to show why the complaint should be prosecuted further or dropped. The Chancellor may appoint a designate to carry out the formal review and recommend appropriate action upon the complaint.

(c) Within twenty working days of initiating a formal review, the Chancellor shall take one of the following actions on the complaint and shall inform both the complainant and the respondent of the action:

- i. Dismissal of the complaint; or
- ii. Invocation of a sanction against the respondent; or
- iii. Referral to the Faculty Hearing Committee.

(d) If the complaint is dismissed, the faculty member shall not be subjected to further jeopardy for the same alleged misconduct.

(e) If the Chancellor invokes a sanction, he/she shall inform the faculty respondent of the reasons for his/her decision.

(f) If there is administrative disciplinary action, this may include sanctions such as:

- iv. Oral admonishment
- v. Written reprimand
- vi. Requirement for restitution
- vii. Suspension of specific privileges
- viii. Reduction in salary; or
- ix. Reduction in rank

(g) Before invoking any sanction, the Chancellor will consult with the Executive Committee of the Faculty Senate about the appropriateness of the proposed sanction. If the Executive Committee and the Chancellor disagree about the appropriateness of the sanction, the Chancellor will inform the committee in writing of his/her reasons for thinking the proposed sanctions appropriate.

(h) Sanctions shall be subject to review by the Faculty Hearing Committee, upon request by the faculty member. If the Chancellor rejects the recommendations of the hearing subcommittee, he or she shall provide the subcommittee and the Executive Committee of the Faculty Senate with a written statement of his/her reasons for rejecting the findings of the hearing subcommittee.

(i) Within ten working days of receiving notice from the Chancellor of administrative invocation of disciplinary action, the faculty member may file a request for review by the Faculty Hearing Committee. Should such a review be requested, the implementation of the administrative sanction shall be stayed pending the final decision by the Chancellor after receipt of the recommendation of the hearing subcommittee.

(j) If the Chancellor refers a complaint to the Faculty Hearing Committee, or if the faculty member requests such referral after administrative invocation of disciplinary action, the subcommittee shall follow the procedures outlined in the subchapter titled "Faculty Senate Hearing Committee." Normally, the hearing shall be completed within thirty working days. If the hearing committee is required by extenuating circumstances to extend the hearing beyond thirty days, it shall file with the chairperson of the Faculty Hearing Committee and the president of the Faculty Senate a statement of the reasons why it must extend the timeliness for the hearing and a tentative timetable for completing its hearing on the complaint.

(k) The findings and recommendations of the hearing subcommittee shall be transmitted to the faculty member, the complainant, and the Executive Committee of the Faculty Senate for submission to the Chancellor. The hearing subcommittee shall recommend to the Chancellor either dismissal of the complaint, specified disciplinary action such as indicated in section (f), above, or referral to a department or administrative officer for appropriate action.

(l) The Chancellor shall render a formal, written decision to the faculty member, the complainant, appropriate university officers and, for information only, to the Executive Committee of the Faculty Senate within ten working days of receipt of the recommendation from the Executive Committee. If the Chancellor fails to accept the recommendations of the hearing subcommittee, he or she shall provide the subcommittee, the chairperson of the Faculty Hearing Committee, the Executive Committee, and the principals in the complaint with a written rationale for rejecting the subcommittee's recommendations.

(m) At the request of the faculty member, the Board of Regents, at its option, may choose to grant a review of the decision on the record.

*FAC 8.B.1. UWS 4 {Procedures for Dismissal} of the Wisconsin Administrative Code, Rules of the Board of Regents.*

UW Oshkosh local policies refer directly to UWS 4 (noted above).

*FAC 8.B.2. Standing Faculty Committee.*

A subcommittee of the Faculty Senate Hearing Committee will be charged with hearing dismissal cases and making recommendations according to the provisions of UWS 4.03. This subcommittee shall operate as the hearing agent for the Board pursuant to Chapter 227, Wis. Stats., and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence and transmit such record and summary along with its recommended findings of law and decision to the Board according to UWS 4.07.

*FAC 8.C.1. UWS 7 {Procedures for Dismissal of Faculty in Special Cases} of the Wisconsin Administrative Code, Rules of the Board of Regents.*

UW Oshkosh local policies refer directly to UWS 7 (noted above).

## **UWS Chapter 11: Wis. Admin. Code: Procedures for Academic Staff Dismissal and for Discipline and Dismissal in Title IX Cases**

*UWS 11.01 Dismissal for cause—indefinite academic staff appointments.*

- (1) A member of the academic staff holding an indefinite appointment may be dismissed only for just cause under ss. UWS 11.02 to 11.10 and 11.29 to 11.33 or for reasons of budget or program under ch. UWS 12.
- (2) The board's policy is that members of the academic staff are entitled to enjoy and exercise all rights of United States citizens and to perform their duties in accordance with appropriate professional codes of ethics. This policy shall be observed in determining whether or not just cause for dismissal exists. The burden of proof of the existence of just cause for a dismissal is on the administration.
- (3) Just cause for dismissal includes, but is not limited to, serious criminal misconduct, as defined in s. UWS 11.29
- (4) Indefinite appointment academic staff dismissal for cause and lesser discipline based on allegations of Title IX misconduct as defined in s. UWS 11.13 shall be governed by ss. UWS 11.13 to 11.26.

*UWS 11.015 Definitions.*

In this chapter:

- (1) "Clear and convincing evidence" means information that would persuade a reasonable person to have a firm belief that a proposition is more likely true than not true. It is a higher standard of proof than "preponderance of the evidence."
- (3) "Complaint" means an allegation against an academic staff member reported to an appropriate university official.
- (3m) "Consent" means words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to engage in sexual activity or other activity referenced in the definitions of sexual assault and

sexual exploitation in this section. A person is unable to give consent if the person is in a state of incapacitation because of drugs, alcohol, physical or intellectual disability, or unconsciousness.

- (4) "Consult" or "consulting" means thoroughly reviewing and discussing the relevant facts and discretionary issues.
- (5) "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (6) "Domestic violence" means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Wisconsin, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Wisconsin as per ss. 813.12(1)(am) and 968.075, Stats.
- (6m) "Incapacitation" means the state of being unable to physically or mentally make informed rational judgments and effectively communicate, and may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.
- (7) "Preponderance of the evidence" means information that would persuade a reasonable person that a proposition is more probably true than not. It is a lower standard of proof than "clear and convincing evidence."
- (9) "Sexual assault" means an offense that meets any of the following definitions:
  - (a) "Rape" means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of the complainant, without the consent of the complainant.
  - (b) "Fondling" means the touching of the private body parts of the complainant for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of the complainant's age or because of the complainant's temporary or permanent mental incapacity.
  - (c) "Incest" means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law as per s. 944.06, Stats.
  - (d) "Statutory Rape" means sexual intercourse with a complainant who is under the statutory age of consent as per s. 948.02, Stats.
- (10) "Sexual exploitation" means attempting, taking or threatening to take, nonconsensual sexual advantage of another person. Examples include:
  - (a) Engaging in the following conduct without the knowledge and consent of all participants:
    - 1. Observing, recording, or photographing private body parts or sexual activity of the complainant.
    - 2. Allowing another person to observe, record, or photograph sexual activity or private body parts of the complainant.
    - 3. Otherwise distributing recordings, photographs, or other images of sexual activity or private body parts of the complainant.
  - (b) Masturbating, touching one's genitals, or exposing one's genitals in the complainant's presence without the consent of the complainant, or inducing the complainant to do the same.

- (c) Dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual activity.
  - (d) Inducing incapacitation through deception for the purpose of making the complainant vulnerable to non-consensual sexual activity.
  - (e) Coercing the complainant to engage in sexual activity for money or anything of value.
  - (f) Threatening distribution of any of the following, to coerce someone into sexual activity or providing money or anything of value:
    - 1. Photos, videos, or recordings depicting private body parts or sexual activity of the complainant.
    - 2. Other information of a sexual nature involving the complainant, including sexual history or sexual orientation.
- (11) “Stalking” means engaging in a course of conduct directed at the complainant that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

*Subchapter II — Procedures for Academic Staff Dismissal in Non–Title IX Cases*

*UWS 11.016 Subchapter II definitions.*

- (1) “Complainant” means any individual who is alleged to be the subject of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, as defined in this section.
- (2) “Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:
- (a) Quid pro quo sexual harassment.
    - 1. An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual’s participation in unwelcome sexual conduct.
    - 2. An employee of the institution either explicitly or implicitly conditions the provision of an academic, professional, or employment–related opportunity, aid, benefit, or service on an individual’s participation in unwelcome sexual conduct.
  - (b) Hostile environment sexual harassment.
    - 1. Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal “reasonable person” standard, is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution’s education program or activity.
    - 2. Unwelcome conduct of a sexual nature directed towards an individual that, when using the legal “reasonable person” standard, is so severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual’s academic or work performance or participation in an university sponsored or supported activity.

Note: The definitions in this section are intended to apply only to Subchapter II.

*UWS 11.02 Responsibility for charges.*

- (1) Whenever the chancellor of an institution receives an allegation which concerns an academic staff member holding an indefinite appointment which appears to be substantial and which, if true, might lead to dismissal under s. UWS 11.01, the chancellor shall request within a reasonable time that the appropriate dean, director, or designee investigate the allegation. For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the chancellor shall direct the Title IX Coordinator, or designee, to initiate an investigation in accordance with applicable policies. The dean, director, or designee shall offer to discuss it informally with the academic staff member, and, if the allegation involves sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, with the complainant and provide information of rights under this chapter. Both the academic staff member and the complainant shall have the right to be accompanied by

an advisor of their choice at any meeting or proceeding that is part of the institutional disciplinary process. If such an investigation and discussion does not result in a resolution of the allegation and if the allegation is deemed sufficiently serious to warrant dismissal, the dean, director, or designee shall prepare a written statement of specific charges. A member of the academic staff may be dismissed only after receipt of such a statement of specific charges and, if a hearing is requested by the academic staff member, after a hearing held in accordance with the provisions of this chapter and the subsequently adopted procedures of the institution. If the staff member does not request a hearing, dismissal action shall proceed along normal administrative lines but the provisions of ss. UWS 11.02, 11.08, and 11.09 shall apply. In those cases where the immediate supervisor of the academic staff member concerned is a dean or director, the chancellor shall, to avoid potential prejudice, designate an appropriate administrative officer to act for the dean or director under this section.

- (2) Any formal statement of specific charges shall be served personally, by electronic means, or by certified mail, return receipt requested. If such service cannot be made within 20 days, service shall be accomplished by first class mail and by publication as if the statement of charges were a summons and the provisions of s. 801.11 (1) (c), Stats., were applicable. Such service by mailing and publication shall be effective as of the first insertion of the notice of statement of charges in the newspaper. If the formal statement of specific charges involves sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the formal statement shall be provided to the complainant upon request, except as may be precluded by applicable state or federal law.

#### *UWS 11.03 Hearing body.*

- (1) The chancellor of each institution shall provide for a hearing body charged with hearing dismissal cases and making a report and recommendations under this chapter. Throughout this chapter, the term “hearing body” is used to indicate either a hearing committee or a hearing examiner as designated in the institutional procedures. This hearing body shall operate as the hearing agent for the chancellor pursuant to s. 227.46 (4), Stats., and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence and transmit such record and summary along with its recommended findings of fact and decision to the chancellor according to s. UWS 11.07.
- (2) With the concurrence of the faculty and the academic staff advisory committee of each institution, the chancellor may provide that dismissal for cause of a member of the academic staff having teaching responsibilities may be heard by the hearing body specified in s. UWS 4.03. If so provided, the hearing shall be held pursuant to the provisions of ch. UWS 11.

#### *UWS 11.04 Hearing.*

If the staff member requests a hearing within 20 days from the service of the statement of charges (25 days if notice is by first class mail and publication), such hearing shall be held not later than 20 days after the request, except that this time limit may be extended by mutual consent of the parties or by order of the hearing body. The request for a hearing shall be addressed in writing to the hearing body established pursuant to s. UWS 11.03. Service of written notice of hearing on the specific charges shall be provided at least 10 days prior to the hearing.

#### *UWS 11.05 Adequate due process.*

- (1) Each institution shall develop policies and procedures to provide for a fair hearing upon request in the event of dismissal. A fair hearing for an academic staff member whose dismissal is sought under s. UWS 11.01 shall include all of the following:
  - (a) A right to the names of witnesses and access to documentary evidence upon the basis of which dismissal is sought.
  - (b) A right to be heard in the academic staff member’s defense.
  - (c) A right to an advisor, counsel, or other representative, and to offer witnesses.
  - (d) A right to confront and cross-examine adverse witnesses. For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the hearing committee may reasonably restrict the academic staff member and the complainant from questioning each other.
  - (e) A verbatim record of all hearings, which might be a sound recording, provided at no cost.



- (f) Written findings of fact and decision based on the hearing record.
- (g) Admissibility of evidence governed by s. 227.45 (1) to (4), Stats.
- (2) For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the complainant shall have all the rights provided to the academic staff member in s. UWS 11.05 (1) (a) to (g), except as may be precluded by applicable state or federal law.

*UWS 11.06 Procedural guarantees.*

- (1) The following requirements shall also be observed:
  - (a) Any person who participated in the investigation of allegations leading to the filing of a statement of charges, or in the filing of a statement of charges, or who is a material witness shall not be qualified to participate as a member of the hearing body.
  - (b) The hearing shall be closed unless the staff member under charges requests an open hearing, in which case it shall be open (see subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies).
  - (c) The hearing body shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges.
  - (d) The burden of proof of the existence of just cause is on the administration or its representatives.
  - (dm) For complaints of sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the standard of proof shall be a preponderance of the evidence.
  - (e) If a staff member whose dismissal is sought has requested a hearing, discontinuance of the proceeding by the institution is deemed a withdrawal of charges and a finding that the charges were without merit.
  - (f) Nothing in this section shall prevent the settlement of cases by mutual agreement between the administration and the staff member, with the chancellor's approval, at any time prior to a final decision by the chancellor; or when appropriate, with the board's approval prior to a final decision by the board.
  - (g) Adjournments shall be granted to enable either party to investigate evidence as to which a valid claim of surprise is made.
- (2) If the institutional policies and procedures provide that dismissal cases be heard by a hearing committee, the following requirements shall be observed:
  - (a) The committee may, on motion of either party, and, if the complaint involves sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, on the motion of the complainant, disqualify any one of its members for cause by a majority vote. If one or more of the hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of replacements equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the policies and procedures adopted by the institution.
  - (b) If the hearing committee requests, the chancellor shall provide legal counsel after consulting with the committee concerning its wishes in this regard. The function of legal counsel shall be to advise the committee, consult with them on legal matters, and such other responsibilities as shall be determined by the committee within the provisions of the policies and procedures adopted by the institution.

*UWS 11.07 Recommendations: to the chancellor.*

The hearing body shall send to the chancellor and to the academic staff member concerned, as soon as practicable after conclusion of a hearing, a verbatim record of the testimony and a copy of its report, findings, and recommendations. After reviewing the matter on record and considering arguments if submitted by the parties, the chancellor shall issue a decision. In that decision, the chancellor may order dismissal of the academic staff member, may impose a lesser disciplinary action, or may find in favor of the academic staff member. The academic staff member shall be notified of the chancellor's decision in writing. In cases involving sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the complainant shall be notified of the chancellor's decision at the same time as the academic staff member. This decision shall be deemed final unless the board, upon request of the academic staff member, grants



review based on the record. For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the complainant shall have all rights provided to the academic staff member in this section.

### *UWS 11.08 Suspension from duties.*

Pending the final decision as to dismissal, the academic staff member with an indefinite appointment shall not be relieved of duties, except where, after consulting with the appropriate administrative officer, the chancellor finds that substantial harm may result if the staff member is continued in the staff member's position. Where such determination is made, the staff member may be relieved of the staff member's position immediately, or be assigned to another administrative unit, but the staff member's salary shall continue until the chancellor makes a decision as to dismissal, unless the chancellor also makes the determinations set forth in s. UWS 11.32 (1) in which case the suspension from duties may be without pay and the procedures set forth in s. UWS 11.32 shall apply.

### *UWS 11.09 Date of dismissal.*

A decision by the chancellor ordering dismissal shall specify the effective date of the dismissal.

### *UWS 11.10 Board review.*

A member of the academic staff on indefinite appointment who has been dismissed for cause by the chancellor following a hearing may appeal this action to the board. Any appeal must be made within 30 days of the date of the decision of the chancellor to dismiss. Upon receiving an appeal, the board shall review the case on the record. Following such review, the board may confirm the chancellor's decision, or direct a different decision, or approve a further hearing before the board with an opportunity for filing exceptions to the hearing body's recommendations or the chancellor's decision and for oral argument on the record. If further review with opportunity for oral argument on the record is provided, this review shall be closed unless the staff member requests an open hearing. (See subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies) All decisions of the board, whether after review on the record or after oral argument, shall be expressed in writing and shall indicate the basis for such decision. For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the complainant shall have the same opportunity to appeal, file exceptions to the recommendations of the hearing committee or chancellor, and oral arguments, as provided to the academic staff member.

### *UWS 11.11 Dismissal for Cause—Fixed term or probationary academic staff appointments.*

A member of the academic staff holding a probationary appointment, or a member of the academic staff holding a fixed term appointment and having completed an initial specified period of time, may be dismissed prior to the end of the contract term only for just cause or for reasons of budget or program under ch. UWS 12. A nonrenewal of such an appointment is not a dismissal under this section. A dismissal shall not become effective until the individual concerned has received a written notification of specific charges and has been offered an opportunity for a hearing before the appropriate dean or director or designee. If such hearing is requested, a determination of just cause and notification of dismissal shall be made by the dean or director or designee. If no hearing is requested the dismissal is affected by the specifications in the original notification of charges. The hearing before the dean, director, or designee shall provide the academic staff member with an opportunity to present evidence and argument concerning the allegations. Dismissal shall be effective immediately on receipt of written notification of the decision of the dean or director or designee unless a different dismissal date is specified by the dean or director. Dismissals for cause shall be appealable by filing an appeal with the hearing body established under s. UWS 11.03. The burden of proof as to the existence of just cause on appeal shall be on the administration or the authorized official. The provisions of s. UWS 11.04, procedural guarantees, contained in ss. UWS 11.05 and 11.06 and the review provisions of s. UWS 11.07, shall be applicable to the appeal proceeding. In no event, however, shall a decision favorable to the appellant extend the term of the original appointment. If a proceeding on appeal is not concluded before the appointment expiration date, the academic staff member concerned may elect that such proceeding be carried to a final decision. Unless such an election is made in writing, the proceeding shall be discontinued at the expiration of the appointment. If the chancellor ultimately decides

in favor of the appellant, salary lost during the interim period between the effective date of dismissal and the date of the chancellor's decision or the end of the contract period, whichever is earlier, shall be restored. In those cases where the immediate supervisor of the academic staff member concerned is a dean or director, the chancellor shall, to avoid potential prejudice, designate an appropriate administrative officer to act for the dean or director under this section. For complaints involving sexual harassment, sexual assault, dating violence, domestic violence, or stalking, the complainant shall have all procedural rights provided to the academic staff member in this section and the standard of proof shall be by a preponderance of the evidence. Dismissal for cause and lesser discipline based on allegations of Title IX misconduct as defined in s. UWS 11.13 shall be governed by ss. UWS 11.13 to 11.26.

*UWS 11.12 Dismissal for cause—teaching members of the academic staff*

The policies and procedures of each institution may provide that dismissal for cause of a member of the academic staff having teaching responsibilities and holding a probationary appointment or a fixed term appointment may proceed under ss. UWS 11.02 to 11.10. If the institutional policies and procedures do not specifically make such provisions, dismissal for cause shall be made pursuant to s. UWS 11.11. Dismissal for cause and lesser discipline based on allegations of Title IX misconduct as defined in s. UWS 11.13 shall be governed by ss. UWS 11.13 to 11.26.

*Subchapter III — Procedures for Academic Staff Dismissal and Discipline in Title IX Cases*

*UWS 11.13 Subchapter III definitions.*

In this subchapter:

- (1) "Complainant" means any individual who is alleged to be the subject of Title IX misconduct, as defined in this section.
- (2) "Education program or activity" means, for purposes of Title IX misconduct only, locations, events, or circumstances over which the university exercised substantial control over both the respondent and the context in which the relevant misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the university.
- (3) "Formal Title IX complaint" means, for the purposes of Title IX misconduct only, a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking against an academic staff member and requesting that the institution investigate the allegations. At the time of filing of the formal Title IX complaint, the complainant must be participating in or attempting to participate in an educational program or activity. A formal complaint may be filed in person, by mail, by electronic mail, or any other method designated by the university. A formal Title IX complaint shall include a physical or digital signature of the complainant or the Title IX Coordinator.
- (4) "Respondent" means an individual who has been reported to be the perpetrator of Title IX misconduct as defined in this section.
- (5) "Sexual harassment" means conduct on the basis of sex that satisfies any of the following:
  - (a) An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct.
  - (b) Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal "reasonable person" standard, the conduct is so severe, pervasive, and objectionably offensive that it effectively denies the person equal access to the institution's education program or activity.
- (6) "Title IX misconduct" means sexual assault, stalking, dating violence, or domestic violence as defined in this chapter and sexual harassment as defined in sub. (5).

*UWS 11.14 Dismissal for cause or lesser discipline for Title IX misconduct.*

- (1) An academic staff member may be dismissed for cause, or subject to lesser discipline, for Title IX misconduct as the term is defined in s. UWS 11.13.

- (2) Title IX misconduct allegations against academic staff shall follow the disciplinary procedure in ss. UWS 11.13 to 11.26. An academic staff member may be dismissed only for just cause and may otherwise be disciplined only after due notice and hearing.
- (3) The board's policy is that members of the academic staff are entitled to enjoy and exercise all rights of United States citizens and to perform their duties in accordance with appropriate professional codes of ethics. This policy shall be observed in determining whether or not just cause for dismissal, or grounds for other discipline exists. The burden of proof of the existence of just cause for a dismissal, or grounds for other discipline, is on the administration.
- (4) The academic staff member is presumed to be not responsible for the alleged Title IX misconduct until a final decision regarding responsibility is made at the conclusion of the disciplinary process.

*UWS 11.15 Application of Title IX misconduct disciplinary procedure.*

This disciplinary procedure for Title IX misconduct will be used only when all of the following requirements are met:

- (1) There is a formal Title IX complaint alleging Title IX misconduct on the basis of sex.
- (2) The conduct occurred in the United States.
- (3) The conduct occurred within the university's education programs or activities.
- (4) The complainant must be participating in or attempting to participate in the education program or activity of the university at the time of filing the formal Title IX complaint.
- (5) The complainant or Title IX Coordinator have submitted a written formal Title IX complaint.

*UWS 11.16 Dismissal of formal Title IX complaint and related appeal.*

- (1) The university shall dismiss formal Title IX complaints consisting of allegations that meet any of the following conditions:
  - (a) The alleged conduct would not constitute Title IX misconduct if proved.
  - (b) The alleged conduct did not occur in a university education program or activity.
  - (c) The alleged conduct did not involve actions against someone physically located in the United States.
- (2) The university may dismiss formal Title IX complaints under any of the following conditions:
  - (a) The complainant formally requests in writing to withdraw the formal Title IX complaint.
  - (b) The academic staff member is no longer employed by the university.
  - (c) Specific circumstances prevent the university from gathering evidence sufficient to reach a determination on the allegations contained in the formal Title IX complaint.
- (3) The university generally shall decide whether to dismiss a formal Title IX complaint within 30 days of receipt of the formal complaint, but the university may extend that timeline as necessary. If a formal complaint is dismissed, the university shall provide notice of the dismissal and reasons therefore to the academic staff member and complainant in writing.
- (4) Within 20 days of receipt of the notice of dismissal, the complainant or academic staff member may appeal the dismissal by filing a written appeal with the chancellor. The complainant or academic staff member may appeal on any of the following bases:
  - (a) Procedural irregularity that affected the outcome of the matter.
  - (b) New evidence that was not reasonably available at the time of the dismissal that could affect the outcome of the matter.
  - (c) The university employee making the dismissal decision had a conflict of interest or bias for the academic staff member or against the complainant, or against complainants generally, that affected the dismissal decision.
- (5) The chancellor shall provide the academic staff member and complainant with the opportunity to provide a written statement supporting or challenging the dismissal. The chancellor shall simultaneously issue a decision to the complainant and the academic staff member within 30 days of receipt of a written appeal. The chancellor's decision on the appeal of a dismissal shall be final.

- (6) The dismissal of a formal Title IX Complaint does not preclude the university from otherwise pursuing discipline against the academic staff member under other administrative rules or university policies.

*UWS 11.17 Investigation of Title IX misconduct allegations.*

- (1) Unless the university dismisses a formal complaint, the university shall appoint an investigator to conduct an investigation of the allegations in the formal complaint.
- (2) The investigator shall provide the academic staff member and the complainant with a notice of investigation. The notice shall include all of the following:
  - (a) The grievance process, including informal resolution options.
  - (b) The allegations of Title IX misconduct with sufficient detail for the academic staff member to prepare a response to the allegations, including the identity of the complainant as well as the date and location of the incident if available.
  - (c) A statement affirming the academic staff member is presumed not responsible for the alleged violation until the disciplinary process finds otherwise.
  - (d) The academic staff member and complainant have the right to an advisor of their choice.
  - (e) The academic staff member and complainant have the right to inspect and review the evidence.
  - (f) Information about any code of conduct rules which prohibit the academic staff member or the complainant from knowingly making false statements or submitting false information during the disciplinary process.
- (3) The parties shall receive amended notice of investigation any time additional charges are added during the course of an investigation. Formal Title IX complaints involving more than one complainant or respondent may be consolidated if they arise out of the same facts or circumstances.
- (4) The university's investigator shall do all of the following:
  - (a) Provide both the academic staff member and the complainant an equal opportunity to provide witnesses, including fact and expert witnesses, who may be interviewed by the investigators and other inculpatory and exculpatory evidence.
  - (b) Not restrict the ability of either the academic staff member or complainant to discuss the allegations under investigation or to gather and present relevant evidence.
  - (c) Provide the academic staff member and complainant the same opportunity to be accompanied by an advisor of their choice during meetings relating to the investigation but may limit the participation by the advisor so long as those limits are applied equally.
  - (d) Provide both the academic staff member and the complainant an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from an academic staff member, complainant, or other source, so that the academic staff member and complainant can meaningfully respond to the evidence prior to conclusion of the investigation.
- (5) As part of its investigation and disciplinary process, the university may not access, consider, disclose, or otherwise use an academic staff members or complainant's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the academic staff member or complainant, unless the university obtains the academic staff members or complainant's voluntary, written consent to do so in relation to the investigation and disciplinary process.
- (6) The university's investigator generally shall complete the investigation and issue a final investigative report within 90 days of the investigator's appointment. However, the investigator may extend the investigation's time frame where circumstances warrant.

*UWS 11.18 Review of evidence.*

- (1) Prior to completion of the final investigative report, the investigator shall send to the academic staff member and complainant and their respective advisors, if any, the evidence gathered during the investigation for inspection and review by the academic staff member and the complainant. The evidence may be provided in an electronic format or a hard copy. The evidence provided includes evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from the academic staff member, complainant or other source to permit the academic staff member and complainant to meaningfully respond to the evidence prior to conclusion of the investigation.
- (2) The academic staff member and the complainant shall have at least 10 days to submit a written response to the evidence. The investigator shall consider any written responses prior to completion of the final investigative report.

*UWS 11.19 Final investigative report.*

The investigator shall create a final investigative report that fairly summarizes relevant evidence and send the report to the academic staff member, the complainant, and their advisors, if any, for their review and response at least 10 days prior to a hearing. The written report shall be delivered simultaneously to the academic staff member and complainant, at least 10 days prior to a hearing. The university shall, upon receipt of the final investigative report, proceed to schedule a live hearing on the matter. A hearing shall be conducted unless the academic staff member and the complainant both waive, in writing, the right to such a hearing.

*UWS 11.20 Standing academic staff committee and hearing examiner.*

- (1) The chancellor of each university, in consultation with academic staff representatives, shall adopt policies providing for the designation of a Title IX misconduct hearing examiner. The chancellor shall select hearing examiners pursuant to these policies to hear academic staff dismissal and discipline cases. Additionally, the academic staff of each university shall provide a standing hearing committee charged with hearing academic staff dismissal and discipline cases. The chancellor shall appoint the presiding member of the hearing committee, who may be a hearing examiner. The academic staff member shall have the right to decide whether a hearing examiner or a hearing committee will hear the matter.

Note: The last sentence of sub. (1) should read “the university”, not “the academic staff member.” The intent was for the university to make this decision. This will be corrected in future rulemaking.

- (2) The hearing committee or the hearing examiner shall conduct the hearing, make a verbatim record of the hearing, and transmit such record along with factual findings and decision to the chancellor. The hearing shall be held no later than 45 days after completion of the final investigative report except that this time limit may be extended by the hearing committee or the hearing examiner.

*UWS 11.21 Adequate due process.*

- (1) A fair hearing for an academic staff member against whom dismissal or other discipline is sought shall include all of the following:
  - (a) Service of written notice of a live hearing on the allegations in the formal complaint at least 10 days prior to the hearing.
  - (b) A right to the names of witnesses and of access to documentary and other evidence which serve as the basis for seeking dismissal or other discipline.
  - (c) A right for the complainant and academic staff member to be heard on their own behalf.
  - (d) A right to an advisor, counsel, or other representatives, and to offer witnesses. The academic staff members or complainant’s advisor or counsel may ask all witnesses relevant questions and follow-up questions, including

those challenging credibility. Credibility determinations, however, may not be made based on a person's status as a complainant, respondent, or witness. If the academic staff member does not have an advisor, the university shall provide the academic staff member, without charge, an advisor of the university's choice to conduct cross-examination on behalf of the academic staff member. The advisor may be an attorney.

- (e) A right to confront and cross-examine adverse witnesses. The academic staff members or complainant's advisor shall conduct cross examination directly, orally, and in real time. The academic staff member and the complainant may not personally conduct cross examination. If the academic staff member, the complainant, or a witness does not submit to cross-examination at the hearing, the hearing committee or the hearing examiner may not rely on any statement of the academic staff member, complainant, or witness in reaching its findings and recommendations. However, the hearing committee or hearing examiner may not draw a negative inference in reaching its findings and recommendations based solely on the absence of an academic staff member, complainant, or witness from the hearing or refusal to answer cross-examination or other questions.
  - (f) A verbatim record of all hearings, which might be a sound recording, made available at no cost for inspection and review.
  - (g) Written findings of fact supporting the decision based on the hearing record. The written findings of fact and decision shall include all of the following:
    - 1. Identification of the allegations potentially constituting Title IX misconduct.
    - 2. A description of the procedural steps taken from the receipt of the formal complaint through the hearing committee's or hearing examiner's decision, including any notifications to the academic staff member and the complainant, interviews with the academic staff member, the complainant, and witnesses, site visits, methods used to gather evidence, and hearings held.
    - 3. Conclusions regarding the application of the university's conduct rules and policies to the facts including the following: a determination regarding responsibility for each allegation and the rationale behind each decision, any disciplinary sanction recommended to be imposed, any remedies recommended to restore or preserve equal access to the university's educational program or activity, and the university's procedures and permissible bases for complainant and academic staff member to appeal.
  - (h) Admissibility of evidence is governed by s. 227.45 (1) to (4), Stats. Only relevant questions may be asked of the academic staff member, the complainant, and any witnesses. The hearing committee or hearing examiner shall determine whether a question is relevant and explain the decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions or evidence are offered to prove that someone other than the academic staff member committed the conduct alleged by the complainant, or unless the questions or evidence concern specific incidents of the complainant's prior sexual behavior with the academic staff member and are offered to prove consent.
  - (i) Upon the academic staff member's request, the university shall provide for the hearing to occur with academic staff member and complainant located in separate rooms with technology enabling the hearing committee or hearing examiner, the academic staff member, and the complainant to simultaneously see and hear witnesses answering questions.
- (2) The complainant shall have all the rights provided to the academic staff member in sub. (1) (a) to (i).

*UWS 11.22 Procedural guarantees.*

- (1) Any hearing held shall comply with the requirements set forth in UWS 11.21. All of the following requirements shall also be observed:
  - (a) The burden of proof of the existence of just cause to support dismissal, or of grounds to support other discipline, is on the university administration.
  - (b) The standard of proof shall be a preponderance of the evidence.



- (c) No academic staff member who participated in the investigation of allegations leading to the filing of a statement of charges, or who participated in the filing of a statement of charges, or who is a material witness, shall be qualified to sit on the hearing committee in that case.
- (d) No university employee or other person who participated in the investigation of allegations leading to the filing of a statement of charges, or who participated in the filing of a statement of charges, or who is a material witness, shall be qualified to serve as the hearing examiner in that case.
- (e) The hearing shall be closed unless the academic staff member requests an open hearing; in which case it shall be open.  
Note: This right was intended to be given to the complainant as well. This will be corrected in future rulemaking.  
Note: See subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies.
- (f) The hearing committee may, on motion of the complainant, or the academic staff member disqualify any one of its members for cause by a majority vote. If one or more of the hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of other members of the academic staff equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the rules and procedures adopted by the academic staff establishing the standing committee under this rule.
- (g) The hearing committee or the hearing examiner may not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges unless the person holding the privilege has waived it. The hearing committee or the hearing examiner shall follow the evidentiary rules in s. UWS 11.21(1)(h).
- (h) If the hearing committee requests, the chancellor shall provide legal counsel after consulting with the hearing committee concerning its wishes in this regard. The function of legal counsel shall be to advise the hearing committee, consult with them on legal matters, and such other responsibilities as shall be determined by the hearing committee within the provisions of the rules and procedures adopted by the academic staff of the institution in establishing the standing academic staff committee under this policy.
- (i) Nothing in this section shall prevent the settlement of cases by mutual agreement between the university administration, the complainant, and the academic staff member.
- (j) Delay or adjournment of the hearing for good cause may be granted. Good cause includes any of the following:
  - 1. The need to investigate evidence as to which a valid claim of surprise is made.
  - 2. To ensure the presence of the academic staff member or the complainant, an advisor, or a witness.
  - 3. To provide language assistance or accommodation of disabilities.
  - 4. To accommodate concurrent law enforcement activity.

*UWS 11.23 Hearing committee or hearing examiner findings and recommendations to the chancellor.*

The hearing committee or hearing examiner shall simultaneously send to the chancellor, to the complainant, and to the academic staff member concerned, within 30 days after the conclusion of the hearing, or otherwise as soon as practicable, a verbatim record of the testimony and a copy of its factual findings and recommendations.

*UWS 11.24 Chancellor's decision*

- (1) After reviewing the matter on record and considering any arguments submitted by the parties, the chancellor shall issue a decision. The chancellor may adopt the hearing committee or hearing examiner's findings and recommendations as the chancellor's decision. The chancellor shall explain in the decision any substantial differences from those findings and recommendations. If the chancellor's proposed decision differs substantially from those recommendations, the chancellor shall promptly consult the hearing committee or the hearing examiner and provide the committee or the hearing examiner with a reasonable opportunity for a written response prior to making a decision. In that decision, the chancellor may order dismissal of the academic staff member, may impose a



lesser disciplinary action, or may find in favor of the academic staff member. The academic staff member shall be notified of the chancellor's decision in writing. The complainant shall be notified of the chancellor's decision at the same time as the academic staff member. This decision shall be deemed final unless the board, upon request of the academic staff member or complainant, grants review based on the record.

- (2) The chancellor's decision shall be based on the record created before the hearing committee or hearing examiner, and the chancellor shall include the chancellor's rationale in the decision. The chancellor's decision shall be simultaneously sent to the academic staff member concerned, the complainant, and to the hearing committee or the hearing examiner within 45 days of the chancellor's receipt of the hearing committee's or hearing examiner's materials. A decision by the chancellor ordering dismissal shall specify the effective date of the dismissal.

*UWS 11.25 Appeal to the board.*

- (1) The academic staff member or complainant may file an appeal of the chancellor's decision to the board. Any appeal must be made within 30 days of the date of the decision of the chancellor to dismiss. The board shall provide the academic staff member and complainant an opportunity for filing written exceptions to the chancellor's decision, and for oral arguments, unless the academic staff member and the complainant waive in writing the right to file exceptions and for oral arguments. The hearing of any oral arguments shall be closed unless the academic staff member, or the complainant requests an open hearing.

Note: See subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies.

- (2) The academic staff member or complainant may file exceptions to the chancellor's decision, and the board shall conduct its review of the chancellor's decision, on any of the following bases:
  - (a) Procedural irregularity that affected the outcome of the matter.
  - (b) New evidence that was not reasonably available at the time of the live hearing that could affect the outcome of the matter.
  - (c) Conflict of interest or bias for or against the academic staff member or complainant, or against complainants and respondents generally, by the Title IX coordinator, investigator, the chancellor, the hearing examiner, or the hearing committee members that affected the outcome.
- (3) If the board decides to take action different from the decision of the chancellor, then before taking final action the board shall consult with the chancellor.
- (4) The board shall make its decision based on the record created before the hearing committee or hearing examiner. Within 60 days of receipt of the chancellor's decision, or otherwise as soon as practicable, the board shall simultaneously notify the academic staff member and the complainant of the board's final decision, which shall include the board's rationale for its decision.
- (5) A decision by the board ordering dismissal of an academic staff member shall specify the effective date of the dismissal.

*UWS 11.26 Suspension from duties in Title IX misconduct dismissal cases.*

Pending the final decision as to dismissal, an academic staff member with an indefinite appointment may not be relieved of duties, except where, after consulting with the appropriate administrative officer, the chancellor finds that substantial harm may result if the staff member is continued in the staff member's position. Where such determination is made, the staff member may be relieved of the staff member's position immediately, or be assigned to another administrative unit, but the staff member's salary shall continue until the chancellor makes a decision as to dismissal, unless the chancellor also makes the determinations set forth in s. UWS 11.32 (1) in which case the suspension from duties may be without pay and the procedures set forth in s. UWS 11.32 shall apply.

*UWS 11.27 Subchapter IV definition.*

In this subchapter, “affected party” means any student, employee, visitor, or an individual participating in a university program or activity, who is a victim of an academic staff member’s serious criminal misconduct.

*UWS 11.28 Dismissal for cause in special cases—indefinite academic staff appointments.*

A member of the academic staff holding an indefinite appointment may be dismissed for serious criminal misconduct, as defined in s. UWS 11.29.

*UWS 11.29 Serious criminal misconduct.*

- (1) In this chapter, “serious criminal misconduct” means:
- (a) Pleading guilty or no contest to, or being convicted of a felony, in state or federal court, where one or more of the conditions in par. (b), (c), (d), or (e) are present, and the felony involves any of the following:
    - 1. Causing serious physical injury to another person.
    - 2. Creating a serious danger to the personal safety of another person.
    - 3. Sexual assault.
    - 4. Theft, fraud, or embezzlement.
    - 5. Criminal damage to property.
    - 6. Stalking or harassment.
  - (b) A substantial risk to the safety of members of the university community or others is posed.
  - (c) The university’s ability, or the ability of the academic staff member’s colleagues, to fulfill teaching, research or public service missions is seriously impaired.
  - (d) The academic staff member’s fitness or ability to fulfill the duties of their position is seriously impaired.
  - (e) The opportunity of students to learn, do research, or engage in public service is seriously impaired.
- (2) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, shall not constitute serious criminal misconduct.
- (3) Except as otherwise expressly provided, an academic staff member who has engaged in serious criminal misconduct shall be subject to the procedures set forth in ss. UWS 11.30 to 11.33.
- (4) Any act required or permitted by ss. UWS 11.30 to 11.33 to be done by the chancellor may be delegated to the provost or another designee pursuant to institutional policies forwarded to the Board of Regents under s. UWS 9.02.

*UWS 11.30 Reporting responsibility.*

Any academic staff member who is charged with, pleads guilty or no contest to, or is convicted of a felony of a type listed in s. UWS 11.29 (1) (a), in state or federal court, shall immediately report that fact to the chancellor.

*UWS 11.31 Expedited process.*

- (1) Whenever the chancellor of an institution within the University of Wisconsin System receives a report under s. UWS 11.30 or other credible information that an academic staff member holding an indefinite appointment has pleaded guilty or no contest to, or has been convicted of a felony of a type listed in s. UWS 11.29 (1) (a), in state or federal court, the chancellor shall:
- (a) Within 3 working days of receipt of the report or information, inform the academic staff member of its receipt and, after consulting with appropriate institutional governance representatives, appoint an investigator to investigate the report or information and advise the chancellor as to whether to proceed under this section or ss. UWS 11.02 to 11.10 or ss. UWS 11.13 to 11.26. If the university knows the identity of an affected party, the university shall make a reasonable attempt to notify the affected party of the report or information at the same time as the academic staff member.
  - (b) Upon appointing an investigator and notifying the academic staff member, afford the academic staff member 3 working days in which to request that the investigator be disqualified on grounds of lack of impartiality or other cause. In the event that the chancellor determines that a request for disqualification should be granted, the

chancellor shall, within 2 working days of the determination, appoint a different investigator. The academic staff member shall have the opportunity to request that any second or subsequent investigators be disqualified on grounds of lack of impartiality or other cause.

- (2) The investigator shall be complete and file a report with the chancellor not later than 10 working days following the investigator's appointment.
- (3) Within 3 working days of receipt of the investigator's report, the chancellor shall consult with appropriate institutional governance representatives and decide whether to seek dismissal of the academic staff member pursuant to ss. UWS 11.28 to 11.33, to seek dismissal of the academic staff member pursuant to ss. UWS 11.02 to 11.10, to seek dismissal of the academic staff member pursuant to ss. UWS 11.13 to 11.25, to seek an alternative disciplinary sanction, or to discontinue the proceedings as follows.
  - (a) If the chancellor decides to seek dismissal of the academic staff member pursuant to ss. UWS 11.28 to 11.33, the chancellor shall file charges within 2 working days of reaching the decision.
  - (b) If the chancellor decides to seek dismissal of the academic staff member pursuant to ss. UWS 11.02 to 11.10 or ss. UWS 11.13 to 11.26, the chancellor shall file charges and proceed in accordance with the provisions of those sections of this chapter and implementing institutional policies. If, during the course of proceedings under ss. UWS 11.02 to 11.10 or ss. UWS 11.13 to 11.26, the chancellor receives a report under s. UWS 11.30 or other credible information that the academic staff member has pleaded guilty or no contest to or has been convicted of a felony of a type listed in s. UWS 11.29 (1) (a), and one or more of the factors listed in s. UWS 11.29 (1) (b) to (e) are present, the chancellor may, at that point, elect to follow the procedures for dismissal pursuant to this section.
  - (c) If the chancellor decides to seek an alternative disciplinary sanction, the procedures under ch. UWS 13 or ss. UWS 11.13 to 11.26, and implementing institutional policies, shall be followed.
- (4) If charges seeking dismissal are filed under sub. (3) (a), the academic staff member shall be afforded a hearing before the institutional standing committee charged with hearing dismissal cases and making recommendations under s. UWS 11.03. The hearing shall provide the procedural guarantees enumerated under ss. UWS 11.05 to 11.06, except that the hearing must be concluded, and written findings and a recommendation to the chancellor must be prepared, within 15 working days of the filing of charges.
- (5) Within 3 working days of receipt of the findings and recommendation of the committee under sub. (4), the chancellor shall prepare a written decision on the matter. In the decision, the chancellor may order dismissal of the staff member, may impose a lesser disciplinary action, or may find in favor of the staff member. The staff member shall be notified of the chancellor's decision in writing. If the university knows the identity of an affected party, the university shall make a reasonable attempt to provide the affected party a copy of the chancellor's final decision at the same time as the academic staff member. This decision shall be deemed final unless the board, upon request of the academic staff member, grants a review based on the record.
- (6) The administration or its representatives shall have the burden of proof to show that just cause exists for dismissal under this chapter. The administration shall demonstrate by clear and convincing evidence that the academic staff member engaged in serious criminal misconduct, as defined in s. UWS 11.29.
- (7) The chair of the academic staff hearing body, subject to the approval of the chancellor, may extend the time limits set forth in this section if the parties are unable to obtain, in a timely manner, relevant and material testimony, physical evidence or records, or where due process otherwise requires.

*UWS 11.32 Temporary suspension from duties without pay*

- (1) The chancellor, after consulting with appropriate academic staff governance representatives, may suspend an academic staff member holding an indefinite appointment from duties without pay pending the final decision as to dismissal where:
  - (a) The academic staff member has been charged with a felony of a type listed in s. UWS 11.29 (1) (a) and the chancellor, after following the provisions of s. UWS 11.31 (1) to (3), finds, in addition, that there is a substantial

- likelihood 1) that one or more of the conditions listed in s. UWS 11.29 (1) (b) to (e) are present, and 2) that the academic staff member has engaged in the conduct as alleged;
- (b) The academic staff member is unable to report for work due to incarceration, conditions of bail or similar cause; or
- (c) The academic staff member has pleaded guilty or no contest to or been convicted of a felony of the type listed in s. UWS 11.29 (1) (a) and one or more of the conditions in s. UWS 11.29 (1) (b) to (e) are present.
- (2) If the chancellor finds that the conditions in sub. (1) are present, he or she shall immediately notify the academic staff member, in writing, of the intent to impose a suspension without pay, and shall, within 2 working days, provide the academic staff member with an opportunity to be heard with regard to the matter. The academic staff member may be represented by counsel or another at this meeting.
- (3) If, after affording the academic staff member the opportunity to be heard, the chancellor determines to suspend without pay, the chancellor shall inform the academic staff member of the suspension, in writing. The chancellor's decision to suspend without pay under this section shall be final, except that:
- (a) If the chancellor later determines that the academic staff member should not be dismissed the chancellor may discontinue the proceedings, or may impose a lesser penalty, and except as provided in par. (b), shall order the payment of back pay for any period of the suspension for which the academic staff member was willing and able to report for work;
- (b) If the chancellor later determines to recommend or impose as a lesser penalty the suspension of the academic staff member without pay, then any period of suspension without pay so recommended or ordered shall be offset by the period of any suspension without pay actually served by the academic staff member.
- (4) If, after affording the academic staff member the opportunity to be heard, the chancellor determines that the conditions in sub. (1) are not present or that a suspension without pay is otherwise not warranted, the provisions of s. UWS 11.08 shall apply.

#### *UWS 11.33 Board Review*

A member of the academic staff on an indefinite appointment who has been dismissed for serious criminal misconduct may appeal this action to the board as provided in s. UWS 11.10. If the university knows the identity of an affected party, the board shall make a reasonable attempt to notify the affected party of its decision at the same time as the academic staff member.

### **Regent Policy Document 14-2, Appendix C Policy for Investigation and Resolution of Formal Title IX Complaints Against University Employees Other Than Faculty and Academic Staff**

#### **Application of this policy.**

This policy applies to the investigation and resolution of formal Title IX complaints filed against university employees other than faculty and academic staff employees. This includes employees who otherwise do not have the right to a formal disciplinary process.

The disciplinary process in Chapter UWS 4 applies to faculty employees and the process in Chapter UWS 11 applies to academic staff employees. The university may discipline an employee up to and including dismissal for cause for Title IX misconduct. The disciplinary process for employee sexual misconduct that is outside the scope of Title IX, and related definitions, are found in separate university policies.

This disciplinary procedure for Title IX misconduct will be used only when all of the following requirements are met:

1. There is a formal Title IX complaint alleging Title IX misconduct on the basis of sex.
2. The conduct occurred in the United States.
3. The conduct occurred within the university's education programs or activities.

4. The complainant must be participating in or attempting to participate in the education program or activity of the university at the time of filing the formal Title IX complaint.
5. The complainant or Title IX coordinator have submitted a written formal Title IX complaint.

The employee is presumed to be not responsible for the alleged Title IX misconduct until a final decision regarding responsibility is made at the conclusion of the disciplinary process. The university may dismiss or discipline an employee for Title IX misconduct only after due notice and hearing. The burden of proof is on the university administration.

#### **Definitions.**

As used in this policy, the following terms shall have the meaning given below:

1. **"Complainant"** means any individual who is alleged to be the subject of Title IX misconduct, as defined in this section.
2. **"Consent"** means words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to engage in sexual activity or other activity referenced in the definition of sexual assault. A person is unable to give consent if the person is in a state of incapacitation because of drugs, alcohol, physical or intellectual disability, or unconsciousness.
3. **"Consult"** or **"consulting"** means thoroughly reviewing and discussing the relevant facts and discretionary issues.
4. **"Dating violence"** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
5. **"Domestic violence"** means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Wisconsin, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Wisconsin as per ss. 813.12(1)(am) and 968.075, Stats.
6. **"Education program or activity"** means, for purposes of Title IX misconduct only, locations, events, or circumstances at which the university exercised substantial control over both the respondent and the context in which the relevant misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the university.
7. **"Formal Title IX complaint"** means, for the purposes of Title IX misconduct only, a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking against an employee and requesting that the institution investigate the allegations. At the time of filing of the formal Title IX complaint, the complainant must be participating in or attempting to participate in an educational program or activity. A formal complaint may be filed in person, by mail, by electronic mail, or any other method designated by the university. A formal Title IX complaint shall include a physical or digital signature of the complainant or the Title IX Coordinator.
8. **"Incapacitation"** means the state of being unable to physically or mentally make informed rational judgments and effectively communicate, and may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.
9. **"Preponderance of the evidence"** means information that would persuade a reasonable person that a proposition is more probably true than not. It is a lower standard of proof than "clear and convincing evidence."

10. **"Respondent"** means an individual who has been reported to be the perpetrator of Title IX misconduct as defined in this section.
11. **"Sexual assault"** means an offense that meets any of the following definitions:
  - a. **"Rape"** means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of the complainant, without the consent of the complainant.
  - b. **"Fondling"** means the touching of the private body parts of the complainant for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of the complainant's age or because of the complainant's temporary or permanent mental incapacity.
  - c. **"Incest"** means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law as per s. 944.06, Stats.
  - d. **"Statutory Rape"** means sexual intercourse with a complainant who is under the statutory age of consent as per s. 948.02, Stats.
12. **"Sexual harassment"** means conduct on the basis of sex that satisfies any of the following:
  - a. **Quid pro quo sexual harassment:** When an employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct.
  - b. **Hostile environment sexual harassment:** Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal "reasonable person" standard, the conduct is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity.
13. **"Stalking"** means engaging in a course of conduct directed at the complainant that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.
14. **"Title IX misconduct"** means sexual assault, stalking, dating violence, or domestic violence as defined in this section and sexual harassment as defined in this section.

### **Disciplinary Sanctions.**

The disciplinary sanctions that may be imposed for misconduct under this policy range from a written reprimand through dismissal.

### **Dismissal of formal Title IX complaint and related appeal.**

1. The university shall dismiss formal Title IX complaints consisting of allegations that meet any of the following conditions:
  - a. The alleged conduct would not constitute Title IX misconduct if proved.
  - b. The alleged conduct did not occur in a university education program or activity.
  - c. The alleged conduct did not involve actions against someone physically located in the United States.
2. The university may dismiss formal Title IX complaints under any of the following conditions:
  - a. The complainant formally requests in writing to withdraw the formal Title IX complaint.
  - b. The employee is no longer employed by the university.
  - c. Specific circumstances prevent the university from gathering evidence sufficient to reach a determination on the allegations contained in the formal Title IX complaint.
3. The university generally shall decide whether to dismiss a formal Title IX complaint within 30 days of receipt of the formal complaint, but the university may extend that timeline as necessary. If a formal complaint is dismissed, the university shall provide notice of the dismissal and reasons therefore to the employee and complainant in writing.



4. Within 20 days of receipt of the notice of dismissal, the complainant or employee may appeal the dismissal by filing a written appeal with the chancellor's designee (hereinafter "chancellor's designee"). The complainant or employee may appeal on any of the following bases:
  - a. Procedural irregularity that affected the outcome of the matter.
  - b. New evidence that was not reasonably available at the time of the dismissal that could affect the outcome of the matter.
  - c. The university employee making the dismissal decision had a conflict of interest or bias for the employee or against the complainant, or against complainants generally, that affected the dismissal decision.
5. The chancellor's designee shall provide the employee and complainant with the opportunity to provide a written statement supporting or challenging the dismissal. The chancellor's designee shall simultaneously issue a decision to the complainant and the employee within 30 days of receipt of a written appeal. The chancellor's designee's decision on the appeal of a dismissal shall be final.
6. The dismissal of a formal Title IX complaint does not preclude the university from otherwise pursuing discipline against the employee under other administrative rules or university policies.

**Investigation of Title IX misconduct allegations.**

1. Unless the university dismisses a formal complaint, the university shall appoint an investigator to conduct an investigation of the allegations in the formal complaint.
2. The investigator shall provide the employee and the complainant with a notice of investigation. The notice shall include all of the following:
  - a. The grievance process, including informal resolution options.
  - b. The allegations of Title IX misconduct with sufficient detail for the employee to prepare a response to the allegations, including the identity of the complainant as well as the date and location of the incident if available.
  - c. A statement affirming the employee is presumed not responsible for the alleged violation until the disciplinary process finds otherwise.
  - d. The employee and complainant have the right to an advisor of their choice.
  - e. The employee and complainant have the right to inspect and review the evidence.
  - f. Information about any code of conduct rules which prohibit the employee or the complainant from knowingly making false statements or submitting false information during the disciplinary process.
3. The parties shall receive amended notice of investigation any time additional charges are added during the course of an investigation. Formal Title IX complaints involving more than one complainant or respondent may be consolidated if they arise out of the same facts or circumstances.
4. The university's investigator shall do all of the following:
  - a. Provide both the employee and the complainant an equal opportunity to provide witnesses, including fact and expert witnesses, who may be interviewed by the investigators and other inculpatory and exculpatory evidence.
  - b. Not restrict the ability of either the employee or complainant to discuss the allegations under investigation or to gather and present relevant evidence.
  - c. Provide the employee and complainant the same opportunity to be accompanied by an advisor of their choice during meetings relating to the investigation but may limit the participation by the advisor so long as those limits are applied equally.
  - d. Provide both the employee and the complainant an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from



an employee, complainant, or other source, so that the employee and complainant can meaningfully respond to the evidence prior to conclusion of the investigation.

5. As part of its investigation and disciplinary process, the university may not access, consider, disclose, or otherwise use an employee's or complainant's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the employee or complainant, unless the university obtains the employee's or complainant's voluntary, written consent to do so in relation to the investigation and disciplinary process.
6. The university's investigator generally shall complete the investigation and issue a final investigative report within 90 days of the investigator's appointment. However, the investigator may extend the investigation's time frame where circumstances warrant.

#### **Review of evidence.**

1. Prior to completion of the final investigative report, the investigator shall send to the employee and complainant and their respective advisors, if any, the evidence gathered during the investigation for inspection and review by the employee and the complainant. The evidence may be provided in an electronic format or a hard copy. The evidence provided includes evidence upon which the university does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from the employee, complainant, or other source, to permit the employee and complainant to meaningfully respond to the evidence prior to conclusion of the investigation.
2. The employee and the complainant shall have at least 10 days to submit a written response to the evidence. The investigator will consider any written responses prior to completion of the final investigative report.

#### **Final Investigative Report.**

The investigator shall create a final investigative report that fairly summarizes relevant evidence and send the report to the employee, the complainant, and their advisors, if any, for their review and response at least 10 days prior to a hearing. The written report shall be delivered simultaneously to the employee and complainant at least 10 days prior to a hearing. The university shall, upon receipt of the final investigative report, proceed to schedule a live hearing on the matter. A hearing shall be conducted unless the employee and the complainant both waive, in writing, the right to such a hearing.

#### **Hearing Examiner or Hearing Committee.**

1. The chancellor of each university shall designate a Title IX conduct hearing examiner or hearing committee to hear employee dismissal and discipline cases. The university shall have the right to decide whether the matter will be heard by a hearing examiner or a hearing committee.
2. The hearing committee or hearing examiner shall conduct the hearing, make a verbatim record of the hearing, and transmit such record along with factual findings and decision to the chancellor. The hearing shall be held not later than 45 days after completion of the final investigative report except that this time limit may be extended by the hearing committee or hearing examiner.

#### **Adequate Due Process.**

1. A fair hearing for an employee against whom dismissal or other discipline is sought shall include all of the following:
  - a. Service of written notice of a live hearing on the allegations in the formal complaint at least 10 days prior to the hearing.
  - b. A right to the names of witnesses and of access to documentary and other evidence which serve as the basis for seeking dismissal or other discipline.

- c. A right for the complainant and employee to be heard on their own behalf.
- d. A right to an advisor, counsel, or other representatives, and to offer witnesses. The employee's or complainant's advisor or counsel may ask all witnesses relevant questions and follow-up questions, including those challenging credibility. Credibility determinations, however, may not be made based on a person's status as a complainant, respondent, or witness. If the employee does not have an advisor, the university shall provide the employee, without charge, an advisor of the university's choice to conduct cross-examination on behalf of the employee. The advisor may be an attorney.
- e. A right to confront and cross-examine adverse witnesses. The employee's or complainant's advisor shall conduct cross examination directly, orally, and in real time. The employee and the complainant may not personally conduct cross-examination. If the employee, the complainant, or a witness does not submit to cross-examination at the hearing, the hearing committee or the hearing examiner may not rely on any statement of the employee, complainant, or witness in reaching its findings and recommendations. However, the hearing committee or hearing examiner may not draw a negative inference in reaching its findings and recommendations based solely on the absence of an employee, complainant, or witness from the hearing or refusal to answer cross-examination or other questions.
- f. A verbatim record of all hearings, which might be a sound recording, made available at no cost for inspection and review.
- g. Written findings of fact supporting the decision based on the hearing record. The written findings of fact and decision shall include all of the following:
  - 1. Identification of the allegations potentially constituting Title IX misconduct.
  - 2. A description of the procedural steps taken from the receipt of the formal complaint through the hearing committee's or hearing examiner's decision, including any notifications to the employee and the complainant, interviews with the employee, the complainant, and witnesses, site visits, methods used to gather evidence, and hearings held.
  - 3. Conclusions regarding the application of the university's conduct rules and policies to the facts including the following: a determination regarding responsibility for each allegation and the rationale behind each decision, any disciplinary sanction recommended to be imposed, any remedies recommended to restore or preserve equal access to the university's educational program or activity, and the university's procedures and permissible bases for complainant and employee to appeal.
- h. Admissibility of evidence governed by s. [227.45 \(1\)](#) to [\(4\)](#), Stats. Only relevant questions may be asked of the employee, the complainant, and any witnesses. The hearing committee or hearing examiner shall determine whether a question is relevant and explain the decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions or evidence are offered to prove that someone other than the employee committed the conduct alleged by the complainant, or unless the questions or evidence concern specific incidents of the complainant's prior sexual behavior with the employee and are offered to prove consent.
- i. Upon the employee's request, the university shall provide for the hearing to occur with the employee and complainant located in separate rooms with technology enabling the hearing committee or hearing examiner, the employee, and the complainant to simultaneously see and hear witnesses answering questions.

2. The complainant shall have all the rights provided to the employee in sub. (1)(a) to (i).

#### **Procedural Guarantees.**

- 1. (1) Any hearing held shall comply with the requirements set forth in the preceding section. All of the following requirements shall also be observed:

- a. (a) The burden of proof of the existence of just cause to support dismissal, or of grounds to support other discipline, is on the university administration.
- b. (b) The standard of proof shall be a preponderance of the evidence.
- c. (c) No employee who participated in the investigation of allegations leading to the filing of a statement of charges, or who participated in the filing of a statement of charges, or who is a material witness, shall be qualified to sit on the hearing committee in that case.
- d. (d) No university employee or other person who participated in the investigation of allegations leading to the filing of a statement of charges, or who participated in the filing of a statement of charges, or who is a material witness, shall be qualified to serve as the hearing examiner in that case.
- e. (e) The hearing shall be closed unless the employee requests an open hearing; in which case it shall be open.

Note: See subch. V of ch. 19, Stats., Open Meetings of Governmental Bodies.

- f. The hearing committee may, on motion of the complainant or the employee, disqualify any one of its members for cause by a majority vote. If one or more of the hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of other members of employees equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the rules and procedures.
- g. The hearing committee or the hearing examiner may not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges unless the person holding the privilege has waived it. The hearing committee or the hearing examiner shall follow the evidentiary rules outlined in this appendix.
- h. If the hearing committee requests, the chancellor shall provide legal counsel after consulting with the hearing committee concerning its wishes in this regard. The function of legal counsel shall be to advise the hearing committee, consult with them on legal matters, and such other responsibilities as shall be determined by the hearing committee within the provisions of the rules and procedures.
- i. Nothing in this section shall prevent the settlement of cases by mutual agreement between the university administration, the complainant, and the employee.
- j. Delay or adjournment of the hearing for good cause may be granted. Good cause includes any of the following:
  - 1. The need to investigate evidence as to which a valid claim of surprise is made.
  - 2. to ensure the presence of the employee or the complainant, an advisor, or a witness.
  - 3. To provide language assistance or accommodation of disabilities.
  - 4. To accommodate concurrent law enforcement activity.

#### **Hearing Committee or Hearing Examiner Findings and Recommendations to the Chancellor's Designee.**

The hearing committee or hearing examiner shall simultaneously send to the chancellor's designee, to the complainant, and to the employee concerned, within 30 days after conclusion of the hearing, or otherwise as soon as practicable, a verbatim record of the testimony and a copy of its factual findings and recommendations.

#### **Chancellor's Designee's Decision.**

- 1. Within 10 days after receipt of the record and findings and recommendations from the hearing examiner or hearing committee, the complainant and the employee may submit written exceptions. The chancellor's designee shall review those materials and their decision shall be based on the record created before the hearing

examiner or hearing committee without consideration of any new evidence submitted by the complainant or the employee. The chancellor's designee shall prepare a written decision within 20 days after the deadline of submission for the written exceptions by the complainant or the employee. If the chancellor's designee's proposed decision differs substantially from those recommendations, the chancellor's designee shall promptly consult the hearing examiner or hearing committee and provide the hearing examiner or hearing committee with a reasonable opportunity for a written response prior to making a decision.

2. The chancellor's designee may adopt the hearing examiner's or hearing committee's findings and recommendations as the chancellor's designee's decision. The chancellor's designee shall explain in the decision any substantial differences from those findings and recommendations.
3. The chancellor's designee's decision shall be simultaneously sent to the complainant, employee, and to the hearing examiner or hearing committee within 45 days of the chancellor's designee's receipt of the hearing examiner's or hearing committee's materials.

#### **Appeal to Chancellor.**

1. The employee or the complainant may appeal the dismissal of a formal Title IX complaint or the chancellor designee's decision by filing a written appeal with the chancellor within 20 days of receiving the decision.
2. The employee or complainant may appeal to the chancellor on the following bases:
  - a. Procedural irregularity that affected the outcome of the matter.
  - b. New evidence that was not reasonably available at the time of the live hearing that could affect the outcome of the matter.
  - c. The Title IX coordinator, investigator(s), chancellor's designee, or the hearing examiner or hearing committee members had a conflict of interest or bias for or against the employee or complainant, or against complainants and respondents generally, that affected the outcome.
3. The complainant and the employee shall be notified of any appeal to the chancellor.
4. The chancellor shall permit the complainant and employee to file a written statement on the appeal. The chancellor shall review the appeal based on the record before the hearing examiner or hearing committee. The complainant and employee shall be simultaneously provided with the final written decision of the chancellor, which shall include the rationale for the decision.

#### **Chancellor's decision.**

1. After reviewing the matter on record and considering any arguments submitted by the parties, the chancellor shall issue a decision. The chancellor may adopt the hearing committee or hearing examiner's findings and recommendations as the chancellor's decision. The chancellor shall explain in the decision any substantial differences from those findings and recommendations. If the chancellor's proposed decision differs substantially from those recommendations, the chancellor shall promptly consult the hearing committee or the hearing examiner and provide the committee or the hearing examiner with a reasonable opportunity for a written response prior to making a decision. In that decision, the chancellor may order dismissal of the employee, may impose a lesser disciplinary action, or may find in favor of the employee. The employee shall be notified of the chancellor's decision in writing. The complainant shall be notified of the chancellor's decision at the same time as the employee. This decision shall be deemed final unless the Board of Regents for the University of Wisconsin System ("board"), upon request of the employee or complainant, grants review based on the record.
2. The chancellor's decision shall be based on the record created before the hearing committee or hearing examiner, and the chancellor shall include the chancellor's rationale in the decision. The chancellor decision shall be simultaneously sent to the employee concerned, the complainant, and to the hearing committee or the hearing examiner within 45 days of the chancellor's receipt of the hearing committee's or hearing examiner's materials. A decision by the chancellor ordering dismissal shall specify the effective date of the dismissal.

**Appeal to the Board of Regents of dismissal of university staff respondent.**

1. (1) In matters where a university staff member is the respondent, the university staff member or complainant may file an appeal of the chancellor's decision to dismiss the staff member to the board. Any appeal must be made within 30 days of the date of the decision of the chancellor to dismiss. The board shall provide the university staff member and complainant an opportunity for filing written exceptions to the chancellor's decision, and for oral arguments, unless the university staff member and the complainant waive in writing the right to file exceptions and for oral arguments. The hearing of any oral arguments shall be closed unless the university staff member, or the complainant requests an open hearing.
2. (2) The university staff member or complainant may file exceptions to the chancellor's decision, and the board shall conduct its review of the chancellor's decision, on any of the following bases:
  - a. Procedural irregularity that affected the outcome of the matter.
  - b. New evidence that was not reasonably available at the time of the live hearing that could affect the outcome of the matter.
  - c. Conflict of interest or bias for or against the university staff member or complainant, or against complainants and respondents generally, by the Title IX coordinator, investigator, the chancellor, the hearing examiner, or the hearing committee members that affected the outcome.
3. If the board decides to take action different from the decision of the chancellor, then before taking final action the board shall consult with the chancellor.
4. The board shall make its decision based on the record created before the hearing committee or hearing examiner. Within 60 days of receipt of the chancellor's decision, or otherwise as soon as practicable, the board shall simultaneously notify the university staff member and the complainant of the board's final decision, which shall include the board's rationale for its decision.
5. A decision by the board ordering dismissal of a university staff member shall specify the effective date of the dismissal.

**Administrative Leave.**

Pending the final decision on the allegations in the formal complaint, the employee/respondent may be placed on administrative leave.

**University of Wisconsin Oshkosh Academic Staff Discipline and Dismissal for Cause**

*ACS 16.1. Complaints.*

If the complaint concerns any of the discrimination or harassment sections in GEN 1.2(1) through (8), the complaint is made according to the process outlined in that section of this Handbook.

Pursuant to UWS 13.01, a complaint is an allegation concerning the conduct of an academic staff member which violates University rules or policies, or which adversely affects the staff member's performance or obligation to the University. The Chancellor or designee shall decide whether a complaint as filed is serious enough to warrant dismissal proceedings under chapters UWS 11 and Chapter 17 of these rules.

- (1) A formal complaint seeks disciplinary action against another employee.
- (2) A complaint may be brought against an academic staff member by supervisor(s), administrators, students, other academic staff, faculty, classified staff, or members of the public. Persons with a complaint are encouraged to utilize informal discussion, collegial interaction, and existing structures to resolve conflicts and remedy personal and professional concerns whenever possible. Where these do not provide a satisfactory resolution, the following formal procedure provides a means by which a person may bring a complaint against the conduct of an academic staff member.

*ACS 16.2. Form.*

	Grievance	Complaint
Nature	Alleges unfair treatment or dissatisfaction with aspects of working conditions	Objection to perceived misconduct and seeks disciplinary action against another employee
Focus	Relief	Sanction; can lead to dismissal from employment for another employee
Rules	UW Oshkosh Academic Staff Personnel Rules Chapter 15	UW Oshkosh Academic Staff Personnel Rules Chapter 16

These rules refer to written complaints signed by the complainant. Oral or anonymous complaints are not considered. Complaints shall be given to the Chancellor or designee within 60 calendar days of the date on which the violation became known to the complainant and shall contain the following information:

- (1) Description of the specific act(s) which resulted in the complaint, the date(s) when the act(s) took place, and the names of persons involved.
- (2) A listing of the specific rules, policies or performance obligations alleged to have been violated, or the nature of the alleged misconduct.
- (3) Evidence to support the complaint. Such evidence may include materials predating the action and leading to the complaint.
- (4) Desired outcome.

*ACS 16.3. Procedure.*

The following procedure shall be used to review complaints.

- (1) The Chancellor or designee shall forward the original copy of the complaint to the supervisor of the individual whose conduct is the subject of the complaint.
- (2) Once a complaint has been received, the supervisor shall then make an initial determination regarding the seriousness of the alleged misconduct.
- (3) Whenever the alleged misconduct could be serious enough for dismissal, or when the results of the initial review of the complaint allows a determination to be made that dismissal might possibly be warranted, the supervisor shall present a recommendation to the Chancellor or his/her designee who shall then determine whether the complaint shall be considered under Chapter 17 of the UW Oshkosh Academic Staff Personnel Rules. If the complaint is to be considered under Chapter 17, the Chancellor or designee shall notify the academic staff member that a complaint has been filed and shall provide a copy of the complaint if requested.
- (4) If the complaint is to be considered under the present chapter of the rules, the supervisor shall, at his/her discretion, informally and confidentially discuss the complaint with the staff member about whom the complaint has been made or with other persons who may be knowledgeable concerning the alleged misconduct.
- (5) At the conclusion of these discussions, if no evidence of wrongdoing has been found, the complaint shall be dismissed, and the complainant so notified. No record of it will be maintained in the staff member's personnel file.

(6) If evidence of wrongdoing is found, the Chancellor or designee shall initiate appropriate action within 14 calendar days of the receipt of the complaint and shall inform the complainant that appropriate action has been taken.

(7) If the complaint has not been dismissed or otherwise resolved within 14 calendar days of the receipt, the supervisor shall send a copy of the signed complaint to the academic staff member concerned. The Chancellor or his/her designee shall initiate a review. Within 14 calendar days of being notified, the Chancellor or designee shall meet as appropriate with the academic staff member, with the complainant, and with other persons if necessary, and shall begin the review of all relevant documents. Within 14 calendar days after the review is completed, the Chancellor or designee shall inform the academic staff member and complainant in writing of his/her action, which may include the following.

(a) Dismissal of the complaint. If the complaint is dismissed, the academic staff member shall not be subjected to further jeopardy for the alleged misconduct. No record of it will be maintained in the staff member's personnel file.

(b) Administrative invocation of an appropriate disciplinary action. If there is administrative disciplinary action, it may include but is not limited to sanctions such as:

- x. Oral admonishment;
- xi. Written reprimand;
- xii. Requirement for restitution;
- xiii. Suspension of specific privileges;
- xiv. Reduction in salary; and
- xv. Suspension with or without pay for a specific period of time.

(c) Referral of the complaint to the Senate of Academic Staff for a hearing (see GOV 4.3.C.).

(d) Within 14 calendar days of receiving written notice from the Chancellor or designee of administrative invocation of disciplinary action, the academic staff member may file a request with the President of the Senate for review by a hearing committee if such review has not already been held. Should such a review be requested, the implementation of the administrative sanction shall be stayed, pending final decision by the Chancellor or designee after receipt of the recommendation of the hearing committee.

(e) If the Chancellor or designee refers a complaint for hearing to the Senate of Academic Staff, or if the academic staff member requests such referral after administrative invocation of disciplinary action, the committee shall follow the procedures outlined under GOV 4.3.C. The hearing shall be completed within 40 calendar days, unless extended by mutual consent of the academic staff member and the hearing committee because extenuating circumstances exist.

(f) The findings and recommendations of the hearing committee shall be transmitted via the President of the Senate of Academic Staff to the academic staff member, the complainant, and the Chancellor. The hearing committee shall recommend to the Chancellor or designee:

- xvi. dismissal of the complaint;
- xvii. disciplinary action such as indicated above; or
- xviii. referral to an administrative officer for appropriate action.

(g) The Chancellor, or designee, shall render a formal, written decision to the academic staff member, the complainant, appropriate University officers and, for information only, to the President of the Senate of Academic Staff within 14 calendar days of receipt of the recommendation from the academic staff hearing committee. The decision shall be final.



## UW System Administrative Policy 1233 (formerly GEN 14): Grievance Procedures

### 1. POLICY PURPOSE:

The purpose of this policy is to establish grievance procedure parameters for university staff that include the elements required by [Wis. Stat. § 36.115\(4\)](#).

### 2. POLICY BACKGROUND:

This policy establishes grievance procedures for university staff who were formerly members of the classified staff (subject to [Wis. Stat. Chapter 230](#)) as of June 30, 2015, and for university staff hired on or after July 1, 2015, who, by the terms of their appointment, have an expectation of continued employment.

#### A. Dismissal

Under [Wis. Stat. § 36.115\(4\)](#) the University of Wisconsin System personnel systems must include grievance procedures applicable to dismissals that include the following elements:

- a) A written document specifying the process that a grievant and an employer must follow [Wis. Stat. § 36.115\(4\)\(a\)](#).
- b) A hearing before an impartial hearing officer [Wis. Stat. § 36.115\(4\)\(b\)](#).
- c) An appeal process in which the highest level of appeal is the Board of Regents [Wis. Stat. § 36.115\(4\)\(c\)](#).

All UW System institutions will need to develop and administer, through university staff shared governance, grievance procedures for dismissals of university staff consistent with the elements outlined in this policy.

University of Wisconsin System faculty are subject to Chapters [UWS 4](#) and [UWS 7](#) of the Wisconsin Administrative Code. University of Wisconsin System academic staff are subject to [Chapter UWS 11](#) of the Wisconsin Administrative Code. Institution faculty and academic staff governance bodies will need to make the necessary changes to incorporate the impartial hearing officer concept into their respective rules. Academic staff governance bodies will need to incorporate appeal to the Board for fixed term and probationary academic staff. Indefinite academic staff are currently provided with appeal to the Board.

#### B. Discipline

[Wis. Stat. § 36.115\(4\)](#) requires the Board and the UW-Madison chancellor to establish personnel systems that include provisions relating to employee discipline. Chapters [UWS 6](#) and [UWS 13](#) of the Wisconsin Administrative Code require UW System institutions to establish grievance procedures for faculty and academic staff in cases involving discipline other than dismissal. Institutional policies adopted pursuant to those provisions satisfy the requirements of [Wis. Stat. § 36.115\(4\)](#).

All UW System institutions will need to develop and administer grievance procedures for discipline of university staff consistent with the elements outlined in this policy. University staff shared governance groups shall have the opportunity to participate in the development of the grievance procedures.

#### C. Working Conditions

University of Wisconsin System university staff may file grievances regarding some matters that affect working conditions. Grievances may not be filed on issues pertaining to:

- a) Utilizing personnel, methods and means to carry out the mission of the University of

- Wisconsin System or institution;
- b) Determining the size and composition of the work force;
- c) Managing and directing the employees of the University of Wisconsin System;
- d) Hiring, promoting, assigning, or retaining employees; or
- e) Establishing reasonable workplace expectations.

All UW System institutions will need to develop and administer, through university staff shared governance, grievance procedures for university staff regarding working conditions consistent with the elements outlined in this policy.

Chapters [UWS 6](#) and [UWS 13](#) of the Wisconsin Administrative Code require UW System institutions to establish complaint procedures for faculty and academic staff in cases involving discipline other than dismissal.

### 3. POLICY DEFINITIONS:

“Dismissal” means separation from employment for disciplinary or performance reasons.

“Discipline” means any action taken by a University of Wisconsin institution with respect to a university staff member with an expectation of continued employment which has the effect, in whole or in part, of a penalty.

“Grievance procedure” means the process through which certain working conditions, discipline, or dismissal of a UW System university staff member with an expectation of continued employment can be appealed.

“Impartial hearing officer” means a grievance review committee established through shared governance, an arbitrator employed by the Wisconsin Employment Relations Commission (WERC), an arbitrator from the WERC roster of neutral decision-makers not employed by the WERC, or an arbitrator from a UWSA roster of arbitrators with a set fee for resolving a discharge case.

“Just cause” means a standard that is applied to determine the appropriateness of a disciplinary action. The elements of determining whether just cause exists are:

- Whether the employee had notice of workplace expectations and potential consequences if those expectations were not met;
- Whether the workplace expectations were reasonably related to business efficiency and performance the employer might reasonably expect from the employee;
- Whether an investigation was undertaken by the employer before discipline or discharge to determine whether the employee violated expectations;
- Whether the investigation was conducted fairly and objectively;
- Whether the employer obtained substantial evidence of the employee's guilt;
- Whether workplace expectations were applied fairly and without discrimination; and
- Whether the degree of discipline imposed reasonably related to the seriousness of the employee's offense and the employee's past record.

“Layoff” means separation from employment for reasons of budget or due to the discontinuance, curtailment, modification, or redirection of a program.

“University staff” are members of the university workforce who contribute in a broad array of positions in support of the University's mission and are not exempt (hourly) from the overtime provisions of the Fair Labor Standards Act (FLSA).

[Note: All FLSA exempt employees holding positions in the State of Wisconsin “classified” service as of June 30, 2015 are given the choice to remain in the university staff for as long as they retain their existing positions, or to voluntarily be reassigned to a position that the institution has designated as either an academic staff or limited appointment position - see [UPS Operational Policy TR 3: Voluntary Reassignment](#)]

#### 4. POLICY:

This policy provided UW System institutions with a framework for the establishment of new grievance procedures for university staff with an expectation of continued employment appealing certain working conditions, discipline, layoff, or dismissal from a UW System institution. University staff serving a probationary period do not have the right to file grievances on dismissal, discipline, or layoff.

Discipline and dismissal of a university staff member with an expectation of continued employment may be imposed only for just cause.

Grievances shall be submitted on a form provided by the employer, and each grievance shall describe the facts upon which the grievance is based, and the relief sought by the employee. The employee and a management designee may agree in writing to extend the time limits in any step of the grievance procedure. Parties are strongly encouraged to resolve situations prior to a grievance being filed, but upon filing, parties are encouraged to resolve grievances at early stages of grievance procedures. UW System institutions are prohibited from retaliating against a grievant for filing a grievance or against a representative or witness who participates, or is scheduled to participate, in grievance proceedings.

Grievances shall be pursued in accordance with the following steps and time limits.

- Dismissal appeals begin at Step Two A, as outlined below, and may proceed to Step Three.
- Layoff and discipline grievances will begin at Step One and may proceed no further than Step Two.
- Working condition grievances may be processed through Step One only.

	STEP ONE	STEP TWO		STEP THREE
		STEP 2A	STEP 2B (employed on June 30, 2015)	
DISMISSAL		X	X	X
LAYOFF	X	X	X	
DISCIPLINE	X	X	X	
WORKING CONDITIONS	X			

**A. Step One:** If attempts to resolve a matter through discussion between an employee and supervisor are not successful, a grievance may be filed. Grievances shall be filed with the employee’s department head, director, dean, or equivalent administrator no later than 30 calendar days from the date the grievant first became aware or should have become aware (with the exercise of reasonable diligence) of the matter grieved. Within 30 calendar days of receipt of the written grievance, the department head, director, dean, or equivalent administrator (or designee) shall meet with the grievant to hear the grievance. The grievant shall receive a written decision no later than seven (7) calendar days after this meeting. If the subject of the grievance is not discipline or layoff, there will be no further opportunity for appeal.

**B. Step Two A:** When an employee has filed a grievance alleging that a discipline decision was not based on just cause and is dissatisfied with the Step One decision, the employee may appeal the decision to an impartial hearing officer. In order to file such an appeal, the grievant must inform the Chancellor or Chancellor’s designee of his or her desire to appeal the Step One decision within 10 calendar days from

receipt of the answer in Step One. An appeal of dismissal of a university staff member will begin at Step Two and must be filed within 20 days of the date of written notice of dismissal.

At issue before the impartial hearing officer will be whether just cause for the discipline or discharge exists. If the subject of the appeal is layoff, the issue before the hearing officer will be whether the applicable layoff procedure was followed. The hearing officer will be charged with hearing the case and making a report and recommendations to the chancellor or chancellor's designee. Impartial hearing officers should be selected in accordance with processes established by each institution. Such a hearing for a university staff employee shall include a right to representation, a right to offer witnesses, and a right to a written decision. The hearing shall be closed unless the grievant requests an open hearing. Within 20 days of receipt of the report and recommendations, the chancellor or chancellor's designee shall release a statement accepting or rejecting the findings of the impartial hearing officer and explaining how the decision will be implemented.

**C. Step Two B - Direct Appeal to WERC for Certain University Staff:** An employee who held permanent status in employment prior to July 1, 2015, and according to the provisions of [Wis. Stat. § 36.115\(6\)](#) retains [Chapter 230](#) appeal rights and may appeal a disciplinary action (suspension, demotion, or reduction in base pay), layoff or discharge using a procedure different than the Step Two A procedures set forth above. Such a grievance may be appealed directly from Step One to the chancellor or chancellor's designee within 10 calendar days from receipt of the answer in Step One.

Thereafter, if the employee is still dissatisfied with the decision as issued by the chancellor or chancellor's designee, the employee may appeal the decision to the WERC under [Wis. Stat. §230.44\(1\)\(c\)](#) within 30 calendar days from the date of the decision being appealed. If an appeal to WERC is filed, no further steps in the grievance process will apply. The decision of the WERC may be subject to judicial review, but an appeal to the Board of Regents is not available using this procedure.

**D. Step Three - Board of Regents Review:** For matters that involve dismissal only, a grievant who is dissatisfied with a chancellor's or chancellor's designee's Step Two decision may appeal the decision to the Board of Regents. If the matter is not appealed to the Board of Regents within 30 calendar days of receipt of the Step Two A decision, the grievance will be considered ineligible for Board review. Upon receiving an appeal, the President of the Board shall refer the appeal to the Board of Regents Personnel Matters Review Committee. In accordance with Board of Regents Bylaws, the Committee shall conduct a review based on the record of the matter created by the impartial hearing officer, and it shall prepare recommended findings and a decision, and shall transmit them to the full Board for final action. The full Board may confirm the Committee's decision, or it may direct a different decision. No further appeal shall be available to the parties.

## UW Oshkosh University Staff Complaints Policy

### 1. PURPOSE

The purpose of this policy is to establish University Staff grievance procedures at all UW Oshkosh campuses. A grievance in this section is a formal statement by an employee which alleges unfair treatment or dissatisfaction with aspects of working conditions within the University and which are outside their control. The term "grievance" is used in two senses here. It denotes first the distress or dissatisfaction caused by perceived unfair treatment or violation of rights or, in general, unsatisfactory working conditions. It also denotes a formal appeal for relief from such distress or dissatisfaction. A grievance differs from a complaint in that it focuses upon the effects experienced by the grievant rather than upon the alleged misconduct of another. A grievance seeks relief for the grievant rather than punishment of another individual.

### 2. RESPONSIBLE OFFICER

The Office of Human Resources will maintain this policy. Please contact Human Resources at [hroffice@uwosh.edu](mailto:hroffice@uwosh.edu), (920) 424-1166, or at <https://hr.uwosh.edu/>. The Office of the Provost and Vice Chancellor documents approved policies in the Faculty and Staff Handbook at <https://www.uwosh.edu/provost/Main%20Highlight/handbooks>.

### **3. SCOPE**

This policy applies to University Staff with an expectation of continued employment who wish to file a grievance contesting layoff, disciplinary action, or dismissals if the employee alleges that the action was taken without just cause. Grievances may also be filed for working conditions or workplace safety. University Staff serving a probationary period, temporary employees and project employees do not have the right to file grievances on dismissal, discipline, or layoff. University Staff serving a probationary period, temporary employees and project employees do have the right to file a grievance on working conditions. Prior to filing a grievance, employees are strongly encouraged to first seek resolution through discussions with supervisors and other institutional resources.

### **4. BACKGROUND**

Chapters UWS 6 and UWS 13 of the Wisconsin Administrative Code require UW System institutions to establish complaint procedures for faculty and academic staff in cases involving allegations made by persons other than the employee's supervisor. Effective July 1, 2015, UPS OP: GEN 24 established University Staff complaint procedure guidelines.

### **5. DEFINITIONS**

- A. "Dismissal" means separation from employment for disciplinary or performance reasons.
- B. "Discipline" means any action taken by a University of Wisconsin institution with respect to a University Staff member with an expectation of continued employment which has the effect, in whole or in part, of a penalty.
- C. "Grievance" is a written complaint by a University Staff member involving an alleged violation of conditions of employment. Only one subject matter shall be covered in any one grievance. A grievance shall contain a clear and concise statement of the grievance by indicating the issue involved, the relief sought, and the date the incident or violation took place.
- D. "Grievance procedure" means the process through which certain working conditions, discipline, or dismissal of a UW System University Staff member with an expectation of continued employment can be appealed.
- E. "Impartial Hearing Officer (IHO)" means a grievance review committee established through shared governance, an arbitrator employed by the Wisconsin Employment Relations Commission (WERC), an arbitrator from the WERC roster of neutral decision makers not employed by the WERC, or an arbitrator from a roster developed by UW System Administration of arbitrators with a set fee for resolving a discharge case.
- F. "Just Cause" means a standard that is applied to determine the appropriateness of a disciplinary action. The elements of determining whether just cause exist are:
- Whether the employee had notice of workplace expectations and potential consequences if those expectations were not met;
  - Whether the workplace expectations were reasonably related to business efficiency and performance the employer might reasonably expect from the employee;
  - Whether an investigation was undertaken by the employer before discipline or discharge to determine whether the employee violated expectations;
  - Whether the investigation was conducted fairly and objectively;
  - Whether the employer obtained substantial evidence of the employee's guilt;
  - Whether workplace expectations were applied fairly and without discrimination; and
  - Whether the degree of discipline imposed reasonably related to the seriousness of the employee's offense and the employee's past record.

G. “Layoff” means separation from employment for reasons of budget or due to the discontinuance, curtailment, modification, or redirection of a program.

H. “University Staff” are members of the university workforce paid on an hourly basis who contribute in a broad array of positions in support of the university’s mission.

## 6. POLICY STATEMENT

A. University staff with the expectation of continued employment may appeal certain working conditions, discipline, layoff, or dismissal.

B. Discipline and dismissal of a University Staff member with an expectation of continued employment may be imposed only for just cause.

C. A grievance must allege that an employee has been, or is being, adversely affected by an improper application, interpretation or violation of a specific law, University rule, policy, practice, or procedure.

D. A grievance may be denied if it fails to allege a grievable issue.

E. Matters related to wages, hours of work, types of fringe benefits, performance evaluations, and other conditions of employment are non-grievable actions.

F. If the grievance concerns any of the discrimination or harassment sections in GEN 1.2.(1) through (8), the grievance is made according to the process outlined in that section of this Handbook.

G. Prior to filing a grievance, a University Staff member is encouraged to seek resolution with his/her immediate supervisor utilizing informal discussion, collegial interaction, and existing structures to resolve conflicts and to remedy personal and professional concerns whenever possible. a. If the immediate supervisor is not a department head, he/she shall notify the department head of the grievance and ensuing discussions. b. Administration will make a good faith effort to informally resolve a problem brought to their attention through discussion and communication with the department or unit involved. If an attempt to resolve a matter is not successful, a grievance may be filed.

H. UW-Oshkosh is prohibited from retaliating against a grievant, representative, witness, or potential witness.

I. An employee has the right to assistance from a representative of his/her choice at any step in the grievance or disciplinary process. a. The representative has the right to be present to observe meetings and to take notes. b. He/she has a limited right to speak but can serve as an advisor to the employee, including repeating certain points stated by the employee, explaining the significance of points made by the employee, and speaking about practices at the work site. c. The representative has no right to speak for the employee in response to questions.

J. The employee and his/her representative will be allowed a reasonable period of time as determined by the OHR to investigate, prepare, and present a grievance during normal work hours without loss of pay. Time spent preparing grievances outside the employee’s scheduled work hours, or any travel or other expenses incurred by the grievant, are not the responsibility of UW Oshkosh. Any expense incurred by the grievant or his/her representative in investigating, preparing, or presenting a grievance shall be the sole responsibility of the grievant or representative.

K. Any changes to the related procedures for this policy will be coordinated through HR and the University Staff Senate President outside of the policy approval process.

L. The difference between a Grievance and a Complaint is outlined below.

	Grievance	Complaint
Nature	Alleges unfair treatment or dissatisfaction with aspects of working conditions	Objection to perceived misconduct and seeks disciplinary action against another employee

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Focus	Relief	Sanction; can lead to dismissal from employment for another employee
Rules	UW Oshkosh University Staff Personnel Rules (Grievances Policy)	UW Oshkosh University Staff Personnel Rules (Complaints Policy)

### 7. REFERENCES

A. Stat. 36.115(4) – <https://docs.legis.wisconsin.gov/statutes/statutes/36/115/4>

B. UW System Operational Policy GEN 14 –  
[https://www.wisconsin.edu/personnelsystems/download/development\\_documents/ops/gen/UPS-OP-GEN-14-Grievance-Procedure.pdf](https://www.wisconsin.edu/personnelsystems/download/development_documents/ops/gen/UPS-OP-GEN-14-Grievance-Procedure.pdf)

C. Wisconsin Employment Relations Commission (WERC) – See Sec. 430-090 (page 5) of Wisconsin Human Resources Handbook: <http://oser.state.wi.us/docview.asp?docid=7358>

*--End of Security Report--*

## Fire Safety Report

### Fire Statistics for On-Campus Student Housing Facilities

#### 2021 Fire Statistics

Location	Address	Total # of Fires	Cause of Fire	# Injuries	# Deaths	Value of Property Damage
Donner Hall	820 High Ave.	0	N/A	N/A	N/A	N/A
Evans Hall	727 W. Lincoln Ave.	0	N/A	N/A	N/A	N/A
Fletcher Hall	712 Elmwood Ave	0	N/A	N/A	N/A	N/A
Gruenhagen Conference Center North Tower	208 Osceola St.	0	N/A	N/A	N/A	N/A
Gruenhagen Conference Center South Tower	208 Osceola St.	0	N/A	N/A	N/A	N/A
Horizon Village	635 Elmwood Ave.	0	N/A	N/A	N/A	N/A
North Scott Hall	625 Algoma Blvd.	0	N/A	N/A	N/A	N/A
South Scott Hall	625 Algoma Blvd.	0	N/A	N/A	N/A	N/A
Stewart Hall	723 W. Lincoln Ave.	0	N/A	N/A	N/A	N/A
Taylor Hall	780 High Ave.	0	N/A	N/A	N/A	N/A
Webster Hall	810 High Ave	0	N/A	N/A	N/A	N/A



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<b>Vue Campus</b>	325 Campus Dr., Fond du Lac, WI 54935	0	N/A	N/A	N/A	N/A
<b>Fox Village</b>	1284 Midway Rd., Menasha, WI 54952	0	N/A	N/A	N/A	N/A

## 2020 Fire Statistics

Location	Address	Total # of Fires	Cause of Fire	# Injuries	# Deaths	Value of Property Damage
<b>Donner Hall</b>	820 High Ave.	0	N/A	N/A	N/A	N/A
<b>Evans Hall</b>	727 W. Lincoln Ave.	0	N/A	N/A	N/A	N/A
<b>Fletcher Hall</b>	712 Elmwood Ave	0	N/A	N/A	N/A	N/A
<b>Gruenhagen Conference Center North Tower</b>	208 Osceola St.	0	N/A	N/A	N/A	N/A
<b>Gruenhagen Conference Center South Tower</b>	208 Osceola St.	0	N/A	N/A	N/A	N/A
<b>Horizon Village</b>	635 Elmwood Ave.	0	N/A	N/A	N/A	N/A
<b>North Scott Hall</b>	625 Algoma Blvd.	0	N/A	N/A	N/A	N/A
<b>South Scott Hall</b>	625 Algoma Blvd.	0	N/A	N/A	N/A	N/A
<b>Stewart Hall</b>	723 W. Lincoln Ave.	0	N/A	N/A	N/A	N/A
<b>Taylor Hall</b>	780 High Ave.	0	N/A	N/A	N/A	N/A
<b>Webster Hall</b>	810 High Ave	0	N/A	N/A	N/A	N/A
<b>Vue Campus</b>	325 Campus Dr., Fond du Lac, WI 54935	0	N/A	N/A	N/A	N/A
<b>Fox Village</b>	1284 Midway Rd., Menasha, WI 54952	0	N/A	N/A	N/A	N/A

*2019 Fire Statistics*

Location	Address	Total # of Fires	Cause of Fire	# Injuries	# Deaths	Value of Property Damage
<b>Donner Hall</b>	820 High Ave.	0	N/A	N/A	N/A	N/A
<b>Evans Hall</b>	727 W. Lincoln Ave.	0	N/A	N/A	N/A	N/A
<b>Fletcher Hall</b>	712 Elmwood Ave	0	N/A	N/A	N/A	N/A
<b>Gruenhagen Conference Center North Tower</b>	208 Osceola St.	0	N/A	N/A	N/A	N/A
<b>Gruenhagen Conference Center South Tower</b>	208 Osceola St.	0	N/A	N/A	N/A	N/A
<b>Horizon Village</b>	635 Elmwood Ave.	0	N/A	N/A	N/A	N/A
<b>North Scott Hall</b>	625 Algoma Blvd.	0	N/A	N/A	N/A	N/A
<b>South Scott Hall</b>	625 Algoma Blvd.	0	N/A	N/A	N/A	N/A
<b>Stewart Hall</b>	723 W. Lincoln Ave.	0	N/A	N/A	N/A	N/A
<b>Taylor Hall</b>	780 High Ave.	0	N/A	N/A	N/A	N/A
<b>Webster Hall</b>	810 High Ave	0	N/A	N/A	N/A	N/A
<b>Vue Campus</b>	325 Campus Dr., Fond du Lac, WI 54935	0	N/A	N/A	N/A	N/A
<b>Fox Village</b>	1284 Midway Rd., Menasha, WI 54952	0	N/A	N/A	N/A	N/A

*Number and Cause of Each Fire in Any On-Campus Housing Facility***2021**

There were no fires, fire-related damage, fire-related injuries, or fire-related deaths reported in on-campus student housing.

**2020**

There were no fires, fire-related damage, fire-related injuries, or fire-related deaths reported in on-campus student housing.

**2019**

There were no fires, fire-related damage, fire-related injuries, or fire-related deaths reported in on-campus student housing.

## Description of On-Campus Student Housing Fire Safety Systems—Residence Halls/Apartments

Residence	Address	Fire Alarm Monitoring On-Site	Partial Sprinkler System	Full Sprinkler System	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans and Placards	# Of Evacuation Drills/Year
<b>Donner Hall</b>	820 High Ave.	Yes- Networked to UWOPD	No	No	Yes- Simplex Zone System	16	120	2
<b>Evans Hall</b>	727 W. Lincoln Ave.	Yes- Networked to UWOPD	No	No	Yes- Simplex Zone System	20	117	2
<b>Fletcher Hall</b>	712 Elmwood Ave	Yes- Networked to UWOPD	No	Yes – Rooms, Halls, and Public Spaces	Yes- Simplex Zone System	25	240	2
<b>Gruenhagen Conference Center North Tower</b>	208 Osceola St.	Yes- Networked to UWOPD	No	Yes – Rooms, Halls, and Public Spaces	Yes- Simplex Zone System	41	231	2
<b>Gruenhagen Conference Center South Tower</b>	208 Osceola St.	Yes- Networked to UWOPD	No	Yes – Rooms, Halls, and Public Spaces	Yes- Simplex Zone System	39	231	2
<b>Horizon Village</b>	635 Elmwood Ave.	Yes- Networked to UWOPD	No	Yes – Rooms, Halls, and Public Spaces	Yes- Simplex Zone System	41	90	2
<b>North Scott Hall</b>	625 Algoma Blvd.	Yes- Networked to UWOPD	No	Yes – Rooms, Halls, and Public Spaces	Yes- Simplex Zone System	41	329	2
<b>South Scott Hall</b>	625 Algoma Blvd.	Yes- Networked to UWOPD	No	Yes – Rooms, Halls, and	Yes- Simplex	35	297	2

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				Public Spaces	Zone System			
<b>Stewart Hall</b>	723 W. Lincoln Ave.	Yes- Networked to UWOPD	No	No	Yes- Simplex Zone System	17	118	2
<b>Taylor Hall</b>	780 High Ave.	Yes- Networked to UWOPD	No	Yes – Rooms, Halls, and Public Spaces	Yes- Simplex Zone System	27	249	2
<b>Webster Hall</b>	810 High Ave	Yes- Networked to UWOPD	No	No	Yes- Simplex Zone System	12	97	2
<b>Vue Campus</b>	325 Campus Dr., Fond du Lac, WI 54935	Yes	Yes	Yes	Yes	Yes	No	2
<b>Fox Village</b>	1284 Midway Rd., Menasha, WI 54952	Yes- Operated by CEC	No	Yes- Rooms, Halls, and Public Spaces. Maintenance by AHERN	Yes- Operated by CEC	8	NA	2

## UW Oshkosh Fire Safety Policy

If a fire occurs in a UWO residence hall or apartment, community members should:

1. Pull the fire alarm
2. Use the nearest safe exit to evacuate
3. Notify the Winnebago County Communication Center by immediately calling 911.

If a community member finds evidence of a fire that has been extinguished, and the person is not sure whether police have already responded, the community member should immediately notify University Police at 920.424.1212 to investigate and document the incident. For the purpose of including a fire in the statistics in the Annual Fire Safety Report, contact University Police at 920.424.1212 or [uwopolice@uwosh.edu](mailto:uwopolice@uwosh.edu).

## Residence Hall Fire Drills

Fire drills are conducted in all on-campus residence halls managed by UWO during the school year to allow residents to become familiar with building alarm systems and practice an evacuation. These are typically done once in the spring semester and once in the fall semester. Fire drills are conducted in all on-campus residence halls during the school year to allow residents to become familiar with building alarm systems and practice evacuation. The drills are coordinated

and conducted by the University Police Department, the University Emergency Manager, the University Environmental Health and Safety (EHS) Coordinator, the Residence Life Coordinator, and the University Emergency Response Team.

Typically, two fire drills are held each year early in the fall semester (October) and again in the spring semester (April).

## Prohibitions and Fire Safety

### *Portable Electrical Appliances, Smoking, and Open Flames*

Only microwave cooking is permitted in student rooms. Food preparation in an extensive and/or ongoing manner is not permitted in resident rooms as a matter of safety and sanitation. Kitchens and kitchenettes are available in each residence hall for this purpose. Students are not permitted to use any cooking appliance with an exposed heating element. Non-cooking appliances with open coils or exposed heating elements are also prohibited. These include, but are not limited to, hot plates, convection ovens, toaster ovens, toasters, electric frying pans, space heaters with open coils, portable type electric grills, cup-type immersion heating coils and other appliances with open coils or exposed heating elements, gas/propane powered appliances and charcoal cooking appliances. Horizon Village residents can utilize some appliances such as toasters and electric frying pans in their suite kitchenettes but are still prohibited from cooking in their bedrooms. Appliances should not be operated in closets or other closed areas or close to flammable items. Residents may be held responsible for any damage caused by negligent use of appliances.

For a list of permitted and prohibited items in the residence halls, refer to the UW Oshkosh Department of Residence Life “Rights and Responsibilities Handbook” found on the Residence Life website, <https://uwosh.edu/housing/>.

In addition, residents should monitor the number and type of appliances they bring to campus. Use of multiple plugs and any extension cords are prohibited, as these items are extreme fire hazards. It is recommended that residents use power strips with a surge protector or fuse on it. Only one power strip can be used per outlet (cannot plug a power strip into a power strip).

### *Candles/Incense*

Candles, wax warmers and incense may not be possessed in the residence halls for decoration. Any exceptions (i.e., religious purposes) to this policy must be obtained in writing from the Coordinator of Residential Conduct.

### *Firecrackers/Fireworks*

No person may possess or use fireworks on university lands. The possession or use of firecrackers, gunpowder or other materials that endanger health or safety is strictly prohibited. Students found in possession of fireworks and/or explosives are subject to legal consequences and/or university disciplinary action, including suspension or expulsion.

### *Fires*

No person may light any fires, including, but not limited to, burning candles, incense, lanterns, potpourri, or gas or charcoal cooktops or grills inside, or immediately surrounding (within 25 feet), of any residence hall. Violations of this rule include setting fire to items on a room door or bulletin board or any other flammable material in the residence hall, or fires caused by a lit candle or cigarette. Setting a fire will lead to dismissal from UW Oshkosh Housing.

### *Fire Evacuation*

All persons must evacuate the building when an alarm sounds. A student not complying with evacuation procedures is subject to disciplinary action.

### *Fire Safety Equipment*

No person may intentionally cause a false fire alarm, whether by means of a fire alarm system or otherwise. No person may tamper with fire extinguishers and boxes, fire hoses and other fire safety equipment. Individuals tampering with fire safety equipment will be subject to immediate suspension or expulsion from the University and legal consequences.

### *Flammable Liquids*

Storage of chemicals such as, but not limited to, nitrous oxide, liquid nitrogen, turpentine, dry cleaning fluid, lighter fluid, gasoline, and other flammable chemicals are prohibited.

### *Room Capacity*

No more than 10 people are allowed to be present in a student room at a time, except for Horizon Village, which may have no more than 16 people in a suite.

### *Smoke Detectors*

No person may interfere and/or tamper with, unplug, or remove any smoke detector without proper authorization.

### *Smoking/Use of Vapor Producing Items*

All residence halls are smoke-free. No person may smoke in any area of the residence halls. When smoking outside the building, all persons must remain at least 25 feet away from the building (Wisconsin State Statute, May 2004). The use of any vapor producing item is not permitted, this includes but is not limited to E-cigarettes, hookahs, and other vapor producing products. Through hall governments, and/or a possible all-hall vote, a hall may designate outdoor smoking areas in addition to, or in place of, the minimal distance (if it is at least 25 feet from residence halls).

### *Smudging*

Students who wish to engage in smudging inside their residence hall must contact the Residence Hall Director.

### *Sprinklers*

In buildings with sprinkler systems, nothing can be within 18 inches of the sprinkler spout, as it may obstruct the water in case of a fire. This includes books on shelves, furniture and items piled on top of lofted beds. In buildings with sprinkler systems, all rental lofts must be set on the lowest setting. Self-designed or homemade lofts are not allowed in buildings with sprinkler systems.

### *Procedures to Use in Case of a Fire*

If you see fire or smoke in your immediate area:

- Activate the fire alarm. Pull the nearest fire alarm station. Call 911 to report the location of the fire/smoke and any other pertinent information. If the call cannot be made safely from the building, call as soon as you find a safe place.
- Remove anyone in immediate danger. Advise students, staff, and visitors to evacuate the building. Evacuate the building via the closest exits located away from the fire. Do not use elevators. Assist individuals with mobility disabilities to the nearest stairwell landing and advise police and/or firefighters of their location.
- Move well away from the building (500 feet is recommended).
- Confine and contain. Close all doors as you leave the building. Do not lock the doors.
- Extinguish. Do this only if you know the location of a nearby extinguisher and can do so without endangering your safety.

If you hear a fire alarm:

- You must evacuate the building. Ensure that all others present in your area also evacuate.
- Shut the door, but do not lock the door.
- Do not delay your evacuation. If possible, take your backpack, briefcase, purse, and/or coat with you.
- Evacuate the building via the nearest fire exit and remain well away from the building (at least 500 feet) until informed by University Police or a City of Oshkosh Fire Department official that you may re-enter.

Individuals with special needs, including temporary disabilities such as a broken leg, are asked to work with their Residence Hall Director to establish an evacuation plan in case of a fire.

### Fire Safety Education and Training Programs for Students, Faculty, and Staff

General safety and fire safety information is available to students, faculty, and staff at <https://uwosh.edu/emergency/emergency-procedures-guide/fire/> and in this report. The training includes procedures students and employees should follow in case of a fire.

#### *Residence Hall Director (RHD) Training*

When Residence Hall Directors (RHDs) and/or Assistant Residence Hall Directors (ARHDs) are assigned to a residence hall, they receive training specific to their residence hall. The training covers the following topics:

- Overview of their hall fire alarm and sprinkler systems
- Overview about evacuating their buildings and their roles during fire drills

#### *Community Advisor (CA) Training*

When Community Advisors (CAs) are assigned to residence halls, they receive training in the form of a fire safety presentation. The training covers the following topics:

- Overview of their hall fire alarm and sprinkler systems
- Overview about evacuating their buildings and their roles during fire drills

#### *Educating Residents*

Prior to the fall and spring fire drills, the Department of Residence Life posts information about evacuation plans and the consequences of not evacuating the building during an alarm. Fire drills are conducted early each semester. After the fire drills, educational information is posted about the amount of time it took residents to evacuate their building during the fire drill, and what would have happened had there been an actual fire.

In addition to this student education, residence hall staff are trained each fall, or upon hiring, on what to do in case of fire, where to evacuate, and how best to assist residents in exiting the building.

### Plans for Future Improvement in Fire Safety

As older buildings undergo complete renovations, those that do not have sprinkler systems included as part of their infrastructure will be updated to include sprinkler systems as well as new fire alarm systems.

\*Please note that Fox Village and Campus Vue facilities are privately owned housing complexes managed by BMOC Inc. While UW Oshkosh has a memorandum of understanding (MOU) with BMOC regarding data collection for these complexes, UW Oshkosh does not own, control, or manage either housing complex.

[End of Fire Report]