

University of Wisconsin-Madison  
Secretary of the Faculty  
133 Bascom Hall

**FACULTY SENATE MEETING AGENDA  
MATERIALS  
for**

**4 December 2017**

*The University Committee encourages senators to discuss  
the agenda with their departmental faculty prior to meeting.*



**WISCONSIN**  
UNIVERSITY OF WISCONSIN-MADISON

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TRANSCRIPTIONS AND FACULTY DOCUMENTS, INCLUDING FACULTY  
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**FACULTY SENATE MEETING**  
**Monday, 4 December 2017 - 3:30 p.m.**  
**272 Bascom Hall**

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**A G E N D A**

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1. Memorial Resolution for:  
Professor Emeritus Ed Lightfoot (Fac doc 2710)
2. Announcements/Information Items.  
State of the Research Enterprise.
3. Question Period.
4. Minutes of November 6. (*consent*)
5. Athletic Board Annual Report for 2016-2017. (Fac doc 2711)
6. Campus Transportation Committee Annual Report for 2016-2017. (Fac doc 2712)
7. PROFS Annual Report for 2016-2017. (Fac doc 2713)
8. Restructure the UW-Madison Arts Institute and Change its Name to the UW-Madison Division of the Arts. (Fac doc 2714)
9. Proposal to Create *Faculty Policies and Procedures* 4.40. Divisional Committee Review Council. (Fac doc 2715) (*first reading*)
10. Proposal to Retire the Research, Safety, and Compliance Oversight Committee and Merge its Functions into the University Research Council. (Fac doc 2716) (*first reading*)
11. Proposal to update *Faculty Policies and Procedures* Chapter 11 (“Summer Session”). (Fac doc 2707) (*vote*)
12. Endorsement of the Sexual Harassment and Sexual Violence Policy. (Fac doc 2709) (*vote*)
13. Change to Faculty Legislation II-303 and Renaming to Protected and Unprotected Expression in a Work-Related Setting. (Fac doc 2708) (*vote*)

**SPECIAL ORDER—NO LATER THAN 4:45 PM**

14. Executive Session of the Faculty Senate to Receive the Confidential Report of the Committee on Honorary Degrees.

Upcoming Faculty Senate meetings: 3:30 p.m., 272 Bascom Hall:

**February 5, March 5, April 2, May 7, October 1, November 4, December 3, 2018**

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## **Memorial Resolution of the Faculty of the University of Wisconsin-Madison On the Death of Professor Emeritus Edwin N. Lightfoot**

Hilldale Professor Emeritus Edwin (Ed) Lightfoot died in Madison on October 2, 2017, at the age of 92. He is preceded in death by his wife of 67 years, Lila (Smith), and is survived by their five children: Theodora (Enrique Rueda), Edwin J. (Sue Dempsey), Nancy (Nick McGill), Robert (Karin Hunsicker) and David (Barry Burciul), and their granddaughter Kate.

Ed Lightfoot was born on September 25, 1925 in Milwaukee County and received B.S. (1947) and Ph.D. (1950) degrees, both in Chemical Engineering, from Cornell University. He worked for three years at Pfizer, where he received a patent on vitamin B12 purification. This experience convinced Ed of the myriad untapped opportunities for chemical engineers to contribute to the biological and medical sciences.

Ed was invited to join the faculty in Chemical Engineering at the University of Wisconsin-Madison in 1953 by Olaf A. Hougen, and charged with the development of a biochemical engineering research and education program. Wisconsin was a world leader in biochemistry at that time, and Prof. Hougen was prescient in recognizing the opportunities for chemical engineers. Ed worked closely with Richard Burgess and others to establish the Biotechnology Center, a facility that brought together faculty and students from diverse disciplines who shared common interests in finding applications for exciting advances in the basic biological sciences.

Ed was an extraordinarily insightful writer and seminal thinker. With his young colleagues R. Byron Bird and Warren Stewart, he co-authored *Transport Phenomena*, published in 1960. This text was the first of its kind to unify the subjects of mass, heat and momentum transfer into an intellectually rigorous and cohesive form, and fundamentally transformed chemical engineering curricula worldwide. The book was translated into 5 languages. A second edition, by the same authors, was released 41 years later. In 1974, Ed published *Transport Phenomena and Living Systems*, a textbook that illustrated how momentum and mass transport concepts could be applied to design of biomedical devices, drug delivery and understanding of biological systems. This remarkable forward-thinking book foretold the burgeoning role of chemical engineering in the life and medical sciences.

At UW-Madison, Ed established a world-renowned research program in biological applications of mass transport, working on such diverse topics such as hemodialysis, extracorporeal perfusion in heart-lung machines, improved decompression schedules for divers, and kinetics of biological oxidation of organic wastes. He became particularly well known for his work in applying mass transfer concepts to the recovery and purification of therapeutic proteins. In his later career, his interests turned to systems aspects of biological processes, evolution, and physiological adaptation. Ed was also a tireless and dedicated teacher, bringing his unique insights and energy into the classroom, and a devoted mentor to his many graduate students. He retired in 1996, but remained actively engaged in the profession and in department life for another 20 years. The department celebrated his 90th birthday in 2016 with a symposium on quantitative biology, attended by many of his 49 Ph.D. students as well as numerous other friends and alumni.

Ed's legendary accomplishments won him scores of awards and accolades. He was elected to the National Academy of Engineering in 1979 and the National Academy of Sciences in 1995. For his dedication to chemical engineering education, he won the AIChE Warren K Lewis Award in 1991. He was awarded honorary doctorates from University of Trondheim in Norway and from the Danish Technical University. A particular highlight of his career was his receipt of the National Medal of Science in 2004, from President George W. Bush, for 'his innovative research and leadership in transport phenomena focusing on biochemical and biomedical engineering with application to blood oxygenation, bioseparation techniques, and diabetic responses.'

Ed was a prolific reader who seemed to know something about everything. As his former PhD student Bramie Lenhoff described his experience as a graduate student: “(Ed’s) meetings ranged well beyond the technical to encompass politics, religion, culture and more.” His creativity and enthusiasm infected all around him; as a colleague once noted humorously: “Ed is a fountain of ideas, and some of them are really good!” In his quieter moments, Ed enjoyed the Wisconsin outdoors at his Sauk County farm with his much-loved dogs. He spent many happy hours canoeing in summers, cross-country skiing in winters, and watching for cranes and eagles. His love for and devotion to his family, and his second family in the Chemical Engineering department, was unquestioned. He will be deeply missed.

Submitted by the Memorial Resolution Committee

Regina Murphy

Brian Pfleger

R. Byron Bird

Manos Mavrikakis

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**FACULTY SENATE  
MINUTES  
06 November 2017**

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Provost Sarah Mangelsdorf called the meeting to order at 3:30 p.m. with 159 voting members present (109 needed for quorum). Memorial resolutions were offered for Professor Emeritus Lloyd Bitzer (Faculty Document [2701](#)) and Professor Emeritus Norbert Schmitz (Faculty Document [2702](#)). Provost Mangelsdorf reported on Homecoming Weekend, the opening of Alumni Park and the renovated Memorial Union, improved student outcomes (graduation rate, average time to degree, undergraduate retention rates), Winter Commencement speakers, faculty and student awards, proposed UW System reorganization (including the return of Cooperative Extension to UW-Madison), the results of the student Campus Climate Survey ([diversity.wisc.edu/climate/survey/](http://diversity.wisc.edu/climate/survey/)) and subsequent actions for change, and administrative searches underway for University Health Services director, Vice Provost for Libraries, Chief Information Officer, and Morgridge Center for Public Center director. There were two questions both relating to the UW-Superior campus.

The [minutes of the meeting of October 2, 2017](#), were approved. Professor Tim Smeeding (La Follette School of Public Affairs) presented the annual report of the University Lectures Committee (Faculty Document [2703](#)). Associate Professor Doug Wiegmann (Industrial Engineering) presented the annual report of the University Curriculum Committee (Faculty Document [2704](#)). Graduate School Dean Bill Karpus presented the annual report of the Graduate Faculty Executive Committee (Faculty Document [2705](#)). There were no questions or comments on any of these items.

Associate Professor Kurt Paulsen (Planning & Landscape Architecture, District 76) moved adoption of Faculty Document [2699](#), “Resolution Calling for the Creation and Implementation of a Campuswide Climate Action Plan.” The motion was seconded. There was one question regarding the financial aspects of the resolution. The motion passed by voice vote with no dissenting votes. (Faculty Document [2700](#) was not introduced and will be revisited at a future Senate meeting.) Professor Anja Wanner (University Committee, District 120) moved adoption of Faculty Document [2706](#), which updated language in chapters one and two of *Faculty Policies and Procedures* that had become outdated. There was one clarification question. Professor Chad Goldberg (Sociology, District 71) moved to divide the question, to separate the chapters. The motion was seconded and passed by voice vote. The modifications to *FPP* Chapter 1 passed unanimously by voice vote. Following some questions about potential downsides to the modifications to Chapter 2, the changes passed by a show of hands. Professor Wanner presented Faculty Document [2707](#), revisions to *FPP* Chapter 11, for a first reading and called on Dean of Continuing Studies Jeff Russell to explain and provide context to the changes. Prof. Wanner also presented Faculty Document [2708](#), related to a new campus Sexual Harassment and Sexual Violence Policy and related to changes to Faculty Legislation II-303, for a first reading. Comments and questions on these two first readings will be taken into account prior to a vote on these items at the next meeting. Provost Mangelsdorf adjourned the meeting at 4:31 p.m.



Steven K. Smith  
Secretary of the Faculty

## **Athletic Board Annual Report for 2016-2017**

### **Introduction**

The Athletic Board has broad responsibilities under the *Faculty Policies and Procedures*. It fulfills these essential duties by relying on individual committees that report to the Board. These include (I) the Academics and Compliance Committee, (II) the Personnel Committee, (III) the Finance, Facilities and Operations Committee, and (IV) the Equity, Diversity and Student Welfare Committee. Each committee meets several times during the year and consults regularly with Athletic Department staff. The chairs of each committee and the Board chair also consult with staff, the University Committee, and many others to discuss pertinent issues. The Board's work is carried out in the context of intense public and media interest in Wisconsin athletics.

University of Wisconsin student-athletes carried a 3.07 cumulative GPA at the end of the Spring 2017 term. At that time, seven student-athletes carried a perfect 4.00 cumulative GPA. Fifty-five student-athletes held GPAs over 3.7 and were named Distinguished Scholars by the Big Ten Conference. Additionally, 331 student-athletes achieved the Dean's List, Dean's Honor List, or Dean's High Honor List.

The academic performance of student-athletes is a major concern of the Board and the Athletic Department. The Academic Progress Rate (APR) is a measure used by the NCAA to monitor graduation of student-athletes at each institution. Teams must maintain a minimum score of 930. The 2016-17 multiyear APR for UW student-athletes was well above 930 in all sports, including perfect 1000 APR scores for Women's Golf, Women's Hockey and Men's Tennis. Of note, Football, Men's Soccer, Men's Tennis, Volleyball, Women's Golf, and Women's Hockey each received APR Public Recognition Awards for achieving a multiyear APR in the top ten percent of all Division I teams in their respective sports.

The University of Wisconsin football team finished with a 990 APR, placing it in the top five among all NCAA Football Bowl Subdivision teams for the fifth straight year – a feat matched only by Duke, Northwestern, and Stanford. These exceptional results across the teams can be attributed to the efforts of the students, the Athletic Department's academic support staff, and the University at large.

### **2016-2017 Athletic Board Membership**

The Athletic Board consists of 23 voting members and one (1) non-voting member.

#### **Faculty**

(12 members: 4-year renewable term, 12 votes)

Jeanette Roberts	Regina Murphy
Susan Lederer	Phil O'Leary
Dan Lisowski	Seth Pollak
Andrea Mason	Laurel Rice
Kenneth Mayer	Patrick McBride
Peter Miller	Karl Shoemaker

#### **Alumni**

(4 members: 4-year non-renewable term, 4 votes)

Paul McCann	Martha Vukelich-Austin
Pat Finley	Jeff Wiesner

#### **Academic Staff**

(2 members: 4-year renewable term, 2 votes)

Jackie Hank	Gretchen Viney
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#### **Classified Staff**

(2 members: 4-year renewable term, 2 votes)

Tricia Drees	LéAndrea Vernon
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#### **Student Athlete Advisory Committee (SAAC)**

(2 members: 1-year renewable term, 1 vote)

Kelsey Grambeau (SAAC)	Amanda Morris (SAESO)
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#### **Division of Recreational Sports**

(one member: non-voting)

John Horn

#### **Associated Students of Madison (ASM)**

(2 members: 1-year renewable term, 2 votes)

Jason Klein	Bjorn Johnson
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## **Committees**

During the period under review, the chair appointed members to four standing committees of the Board: Academics and Compliance Committee; Equity, Diversity and Student Welfare Committee; Finance, Facilities and Operations Committee; and the Personnel Committee. The full Board met seven (7) times and each committee met either five (5) or six (6) times. Each committee is responsible for reporting or referring items to the plenary Board.

Board organization is related to the structure of the Division of Intercollegiate Athletics (usually referred to as the athletics department): the athletics department has one director, seven associate directors, and several assistant directors. In 2016-17, three committees of the Athletic Board served as “boards” that worked in concert with four of the associate directors (Academics and Compliance; Finance, Facilities and Operations; Equity, Diversity and Student Welfare). The Personnel Committee worked with seven sport administrators (one assistant and six associate athletic directors) and one department head (human resources). The Medical Advisory Group (part of the Equity, Diversity and Student Welfare Committee) includes the head trainer and an assistant director, while the University Ridge Oversight Subcommittee involves one associate director.

### **I. Academic and Compliance Committee**

Co-Chairs: Karl Shoemaker and Susan Lederer

The Academic and Compliance Committee, charged with reviewing academic and compliance issues, met five (5) times during 2016-17. The Board is responsible for approving competition schedules with more than six (6) missed days of class. The committee approves or denies schedules based on several factors, including but not limited to the various student-athlete academic performance measures (FGR, GSR, APR). Student-athletes with a cumulative GPA of less than 2.5 remain limited to six (6) missed days of class, irrespective of committee approval. Teams that have schedules with less than six (6) missed days of class are also reviewed by the committee but are typically approved automatically.

Under the direction of Katie Smith, the compliance staff continued to provide education, proactively monitor regulatory compliance, and self-report violations. The compliance office expanded its educational program utilizing various methods to increase awareness of rules and foster a compliance conscious environment. A letter from the NCAA Football Enforcement Development Group commending our coaching staff for their knowledge and respect for NCAA recruiting restrictions evidenced the great success of these programs. The compliance office reviewed documentation submitted by coaches and other staff to ensure compliance as it relates to practice times, travel itineraries, communication with prospective student-athletes, and donation requests. The Athletic Department reported no Level I or Level II violations and twenty-one Level III or Level IV violations to the NCAA during the 2016-17 academic year. These numbers are consistent with previous years and evidence our commitment to maintaining a level of trust that encourages self-reporting as a vital component of our compliance efforts.

Academic Services, led by Mark Shook, brought attention to tutor training, the impact of an increased minimum GPA requirement by the NCAA, and prevention of academic misconduct. The selection process for the Big Ten Postgraduate Scholarship was reviewed by the committee, as were graduation and student-athlete admissions data. The committee continued to monitor academic policies related to post-season travel, test-proctoring procedures, and mandatory study halls. The Annual Academic Report was also distributed.



## 2016-17 Academics and Compliance Committee Roster

Paul McCann	(Alumni)	Karl Shoemaker	(Faculty)
Martha Vukelich-Austin	(Alumni)	Patrick McBride	(Faculty)
Jeff Wiesner	(Alumni)	Laurel Rice	(Faculty)
Jeanette Roberts	(Faculty)	Gretchen Viney	(Academic Staff)
Susan Lederer	(Faculty)	Tricia Drees	(University Staff)
Dan Lisowski	(Faculty)	LéAndrea Vernon	(University Staff)
Kenneth Mayer	(Faculty)	Amanda Morris	(SAESO)
Regina Murphy	(Faculty)	Kelsey Grambeau	(SAAC)
Phil O'Leary	(Faculty)	Bjorn Johnson	(ASM)

## II. Personnel Committee

Co-Chairs: Ken Mayer and Dan Lisowski

The Personnel Committee met five (5) times during 2016-17. The committee worked alongside the Board and Athletic Department staff to implement and amend procedures related to search and screen policies, the hiring of coaching staff, and matters related to sport liaisons. One area of focus involved the clarification of the duties of each sport liaison. Said individual is expected to monitor the student-athlete experience. The Post Season Bonus Policy dated October 2015 had no substantive changes. The Board continued to review head coach evaluations, which are brought to the full Board for approval.

## 2016-2017 Personnel Committee Roster and Sport Assignment

Jeanette Roberts	(Faculty)	Men's Golf
Dan Lisowski	(Faculty)	Football
Susan Lederer	(Faculty)	Men's and Women's Tennis
Andrea Mason	(Faculty)	Women's Soccer
Kenneth Mayer	(Faculty)	Men's Hockey
Peter Miller	(Faculty)	Men's Basketball
Regina Murphy	(Faculty)	Softball
Phil O'Leary	(Faculty)	Men's and Women's Swimming/Diving
Seth Pollak	(Faculty)	Men's & Women's Rowing
Patrick McBride	(Faculty)	Women's Basketball
Pat Finley	(Alumni)	Men's Soccer
Karl Shoemaker	(Faculty)	M/W Track & Field and Cross Country
Jackie Hank	(Academic Staff)	Volleyball
Gretchen Viney	(Academic Staff)	Women's Hockey
LéAndrea Vernon	(University Staff)	Women's Golf
Laurel Rice	(Faculty)	
Paul McCann	(Alumni)	
Jeff Wiesner	(Alumni)	
Martha Vukelich-Austin	(Alumni)	
Jason Klein	(ASM)	
Bjorn Johnson	(ASM)	
Tricia Drees	(University Staff)	

### **III. Finance, Facilities and Operations Committee**

Co-Chairs: Pete Miller and Jeff Wiesner

The Finance, Facilities and Operations Committee met four (4) times during the 2016-17 fiscal year, which began July 1, 2016 and ended June 30, 2017. The committee (a) works to ensure that the Division of Intercollegiate Athletics ends each fiscal year with a positive net margin, (b) monitors the capital reserve policy for the division, (c) ensures that the following year's budget is submitted to the Athletic Board with a projected positive net margin, including specific motions for total spending authority and ticket prices, (d) discusses strategies to ensure ongoing annual positive net margins, and (e) sets policies for approval and uses of division facilities. The committee endeavors to explore, with the division, concepts such as cost containment, maintaining and enhancing current revenues, and generating new revenue streams. The Athletics Department supports 23 sports and approximately 900 student-athletes. The committee meets quarterly to discuss financial reports, construction activities, and any other business of the department.

The committee reviewed the Baker Tilly Financial Audit Report that was issued January 22, 2016. This report is used to assess internal controls and agreed upon procedures. Annual operating revenues during 2016-17 were \$127,095,587, which exceeded annual operating expenses of \$126,888,528, leaving a positive net margin of \$207,059. The committee tracked the budget at each meeting to assure they were on target with the coming year's expectations. For Finance and Facilities, the issues that have been at the forefront of our discussions this year include the financial requirements associated with new NCAA initiatives (full cost of attendance, meals) that added significant expenditures to the budget. This has been balanced by increased revenue from the Big Ten Conference and the apparel contract. The department again ended the year slightly in the black, contributed money to the rest of campus, and had a clean audit opinion from the external auditors. On the facilities side, the major focus of the last year was the development of the Facilities Master Plan that outlines potential capital projects for the next twenty years.

Senior staff continued to plan for the economic future of the Athletic Department. The committee reviewed multi-year projections several times during the year. In addition, the co-chairs met regularly with members of the senior staff to discuss various issues. The mechanisms and procedures for substantive interaction between the Division of Intercollegiate Athletics and the Athletic Board through the Finance, Facilities and Operations Committee are in place and working.

#### 2016-17 Finance, Facilities and Operations Committee Roster

Pat Finley	(Alumni)	Seth Pollak	(Faculty)
Martha Vukelich-Austin	(Alumni)	Karl Shoemaker	(Faculty)
Laurel Rice	(Faculty)	Jackie Hank	(Academic Staff)
Susan Lederer	(Faculty)	Kelsey Grambeau	(SAAC)
Andrea Mason	(Faculty)	Amanda Morris	(SAESO)
Peter Miller	(Faculty)	Jason Klein	(ASM)
Regina Murphy	(Faculty)	LéAndrea Vernon	(University Staff)
Phil O'Leary	(Faculty)		
Jeanette Roberts	(Faculty)		

#### **IV. Equity, Diversity and Student Welfare Committee**

Co-Chairs: Regina Murphy, Martha Vukelich-Austin, and Phil O'Leary

The Equity, Diversity and Student Welfare Committee met six (6) times during 2016-17.

During the 2016-2017 academic year, the Equity, Diversity and Student Welfare Committee (EDSW) addressed several issues facing the contemporary student athlete. The committee discussed the unique mental health issues facing student athletes with the Athletic Department (AD) staff psychologist, and reviewed improvements in the performance nutrition program. EDSW evaluated the AD career development programs and the job placement statistics for student athletes. Time demands on student athletes were discussed, in line with the national attention now being paid to this topic. EDSW completed a detailed gender equity review, paying attention to specific issues such as equal access to practice facilities and trainers, proportional opportunities to participate, proactive publicity efforts, and recruiting and retention practices.

#### **2016-2017 Equity, Diversity and Student Welfare Committee Roster**

Pat Finley	(Alumni)	Jeanette Roberts	(Faculty)
Martha Vukelich-Austin	(Alumni)	Seth Pollak	(Faculty)
Laurel Rice	(Faculty)	Karl Shoemaker	(Faculty)
Susan Lederer	(Faculty)	Jackie Hank	(Academic Staff)
Andrea Mason	(Faculty)	Kelsey Grambeau	(SAAC)
Peter Miller	(Faculty)	Amanda Morris	(SAESO)
Regina Murphy	(Faculty)	Jason Klein	(ASM)
Phil O'Leary	(Faculty)	LéAndrea Vernon	(University Staff)

#### **Faculty Athletic Representative Activities**

Laurel Rice and Peter Miller served as the University of Wisconsin's Faculty Athletics Representatives (FARs) to the Big Ten and NCAA. Activities of FARs included (a) attending Big Ten and NCAA meetings; (b) reviewing and approving waivers, compliance violations, and requests for reinstatement; (c) certifying coaches through the administration and grading of certification exams; and (d) monitoring the implementation of policies and standards related to missed class days for conference championship events.

#### **Current Issues and Concerns**

The 2016-17 year was a successful year for Wisconsin Athletics. The enterprise of college athletics is fragile in nature, so the Department's capacity to achieve on-field success for many years while also achieving at among the highest of levels nationally in the academic arena is impressive. Athletic Department administrators and coaches have demonstrated a shared commitment to compliance and to working as a supportive partner to the rest of campus.

Moving forward, the Athletic Department must continue to remain true to University principles as it competes at the highest levels of NCAA competition. The broader landscape of college athletics is likely to be affected by a range of legal, social, and financial changes in the years to come. In this shifting landscape, the Athletic Board must be especially active in lending watchful support and oversight. Student welfare and opportunity are at the heart of the Board's work with the Athletic Department and shall remain so in an era of reform that may soon arrive.

## **Campus Transportation Committee Annual Report for 2016-2017**

### **I. STATEMENT OF COMMITTEE FUNCTIONS/CHARGE**

Pursuant to section 6.30(B) of the Faculty Policy and Procedures, the functions of the Campus Transportation Committee (CTC) are as follows:

1. Provides advice and recommendations to the administration and all governance bodies on policies and budgetary matters, including rates, relating to all aspects of pedestrian and motorized and non-motorized vehicular transportation and parking on the campus.
2. Interprets policies related to transportation and parking adopted by governance bodies.
3. Ensures appropriate consultation of governance bodies regarding proposed changes in any policies.
4. Initiates and recommends projects for addressing campus transportation needs including projects to enhance pedestrian, bicycle, bus, and automobile access to the campus. Such recommendations are to be considered in detail by the Division of Facilities Planning and Management, or other appropriate divisions of the university, and the Campus Planning Committee.
5. Provides representation on all building committees for projects that include or affect transportation facilities.
6. Creates subcommittees to address issues related to particular aspects of the campus transportation system.

### **II. CTC's 2016-2017 ACTIVITIES**

#### **September 2016 – May 2017**

- ☐ 7 Campus Transportation Committee meetings (did not meet October 2016 or January 2017)

#### **2016-2017 CTC Actions Items**

- ☐ September 9, 2016

Approval of the May 13, 2016 minutes – motion to approve the minutes S. Arneson and second by C. Scarlett. Passed - voice vote

#### **2015-2016 Annual Report**

Motion: to approve draft annual report by A. Crandall and second by C. Scarlett.

Discussion: relative to the report – no changes from May.

Approved: by voice vote.

- ☐ **October 14, 2016 – No Meeting**

- ☐ **November 11, 2016**

Approval of the September 9, 2016 minutes – motion to approve the minutes S. Arneson and second by B. Burdett. Passed - voice vote

#### **2015-2016 Annual Report**

Motion: to approve the revised 2015-2016 Draft Annual Report by K. Schneider and second by A. Crandall.

Discussion: to revisit and approve the draft annual report as some additions had been added since the September 9th meeting.

Approved: By a voice vote

- ☐ **December 9, 2016**

Approval of the November 11, 2016 minutes – motion to approve the minutes K. Schneider and second by C. Scarlett. Passed - voice vote

Motion: to approve the 3 to 2 conversion rate for the fall 2017 per the six year plan by K. Schneider and second by S. Nagreen.

Discussion: On 3:2 Conversion Rate and payroll deduction.

Approved: By a voice vote

□ **January 13, 2017 – No Meeting**

□ **February 10, 2017** - No voting activity – quorum not met.

□ **March 10, 2017**

Approval of the December 9, 2016 minutes – motion to approve the minutes K. Schneider and second by S. Nagreen. Passed voice vote

Approval of the February 10, 2017 minutes – motion to approve the minutes A. Crandall and second by T. Adams. Passed - voice vote

Motion: to approve 2017-2018 Program Changes made by K. Schneider and second by B. Rolsma.

Discussion:

- Increase the cost of night permits by \$5 per year (\$45 to \$55 per year).
- Increase the cost of the Employee Bus Pass by \$12 per year (\$24 - \$36).
  - Bus pass rate has not increased in the last four years.
  - Anticipating a 22% increase in rates from Madison Metro in FY19 (\$350,000).
  - \$12 annual rate increase would only generate \$70,000.
  - P. Van Kan concerned about a 50% increase and the perception/concept of such a large increase as it appears to UW Employees. The increase even though it amounts to \$1 per month is at a much higher percentage than permit rates that have increased 3% -10% annually. He feels this may discourage employees to use the bus and may have a greater impact on lower paid employees.

Motion: P. Van Kan made a motion for a friendly amendment to the 2017-2018 Program Changes

Not Approved: Yes \_\_\_3\_\_\_ No \_\_\_7\_\_\_

Motion: To approve the 2017-2018 Program Changes as is it stands which includes the \$12 increase for the bus pass by K. Schneider and second by B. Rolsma.

Approved: Yes \_\_\_8\_\_\_ No \_\_\_2\_\_\_

□ **April 7, 2017**

Approval of the March 10, 2017 minutes – motion to approve the minutes S. Nagreen and second by D. Egelski. Passed - voice vote

□ **May 12, 2017** - Approval of the April 7, 2017 minutes – motion to approve the minutes K. Schneider and second by S. Nagreen. Passed - voice vote

### III. CTC's 2016-2017 DISCUSSION OF TRANSPORTATION SERVICES

#### **Presentations and Topics brought to the CTC by Transportation Services:**

Dates correlate with monthly minutes located online:

[https://transportation.wisc.edu/customergroups/committee\\_meeting.aspx](https://transportation.wisc.edu/customergroups/committee_meeting.aspx)

- 2016 Biennial Survey (12.9.16)(3.10.17)(4.7.17)
- Accessible Shuttle (9.9.16)
- Bicycle/Pedestrian stalls/racks (4.7.17)
- Campus Bus (2.10.17) (3.10.17)
- Campus Master Plan (9.9.16) (11.11.16) (12.9.16) (2.10.17) (3.10.17) (4.7.17) (5.12.17)
- Construction Updates (9.9.16) (11.11.16) (12.9.16) (2.10.17) (3.10.17) (4.7.17) (5.12.17)
- Intersection Safety Discussion (11.11.16)

- ☐ Lost Tickets (3.10.17)
- ☐ Pay by Phone (9.9.16)
- ☐ Parking Rate Discussion 2017-2018 (12.9.16)
- ☐ Permit Sales 2016-2017 (9.9.16)
- ☐ Program Changes -Rate Change Info – 2017-2018 rates: (12.9.16) (2.10.17)
  - Increase the lost permit and permit exchange by \$5
  - Increase cost of night permit by \$5
  - Increase the lost ticket fee in garages by \$8
  - Extend the hours of control for moped lots adjacent to Residence Halls to 11pm
- ☐ Reclassification of Lot 28 per letter to the chair (2.10.17)
- ☐ Transportation Services Budget (3.10.17) (4.7.17)
- ☐ Transportation: What we do and who we are (9.9.16)
- ☐ University Bicycle Resource Center (9.9.16)
- ☐ University Salting Procedures (5.12.17)
- ☐ UW Budget – Governor’s budget, Opt-out Seg Fees (allocable and non-allocable fees) & possible impacts on campus bus and ridership (2.10.17)
- ☐ UW Hospital Garage Expansion Project (9.9.16) (11.11.16) (12.9.16) (2.10.17) (3.10.17) (4.7.17) (5.12.17)
- ☐ Vet Med construction and new parking structure (2.10.17) (3.10.17) (4.7.17) (5.12.17)

## **Parking System**

Operational changes beginning September 1, 2016 include:

### **A. Parking Updates**

- ☐ Continue to move from the three to two rate conversions, Transportation Services is trying to match the rates of parking lots to more closely match the demand and location.
  - Move all parking structures to the highest rate; they are the most expensive lots to operate
  - Core campus lots move to the highest rate due to their proximity to the core of campus and high demand for the parking.
  - All lowest rate lots move to the mid-range rate.
  - Lots will increase 3%-10% per year.
  - Lowest rate in 2019 will be \$950 per year.
- ☐ No change to Flex rates; Flex rates were increased last year; to visitor rates; Administration fees; afternoon and night permits.
- ☐ No change in monthly permit rates.
- ☐ Developed a comprehensive maintenance plan for the campus parking structures.
- ☐ Parking Notices going to Spam issue was corrected by sending parking notices via mail merge and not using T2 Flex software.
- ☐ Electric Vehicle charging stations are actively working in several lots throughout campus.
- ☐ Field Services area hired a project position in April 2016 to begin overhauling, categorizing and coordinating repairs on 8 facilities which received evaluations from an external engineering firm.
- ☐ Hired new Facility Project Manager Position April 2017.
- ☐ Designed Wayfinding Signs for all campus facilities with the first 3 ramps being converted in Spring of 2017

### **B. mopeds**

- ☐ Issued 1036 moped permits; 71 permits were returned, leaving 965 active moped permits for 2016-2017 which is a decrease of 3 permits from the previous year.
- ☐ Transportation Services removed 1 moped lot during 2016-2017. Changed the layout of three moped lots due to bike and vehicle parking demands. Five stalls were removed over summer due to stalls being directly over storm drains and concerns of gasoline leaking into storm system when mopeds are tipped over.

- ☐ In cooperation with the UW Police Department, TS will continue outreach and education in areas where mopeds conflict with pedestrians, bicycle and/or vehicular traffic.

C. Commuter Solutions Initiatives 2015-2016 Transportation Demand Management activities continued for 2016-2017, including the use of the employee bus pass campus bus, flex parking, and ZipCar (car sharing program).

2015 Highlights are:

- ☐ Lot 202 and 203 Park and Rides (with shuttles) ran for fourth year with permit total sales of 730; 178 permits returned, net of 552 active permits.
- ☐ Third year of Accessible Circulator Shuttle. Total ridership Sept-May was 4,939 down from the previous year of 7,931. ASM agreed to help fund the fourth year of the Accessible Circulator Shuttle (56 %) while continuing to partner on campus bus funding.
- ☐ Total bicycle parking stalls on campus increased to 14,279 from 13,635. Of these, the number of stalls meeting campus standard increased to 14,225 from 12,692.
- ☐ University Bicycle Resource Center attendance down to 1,284 from 1,311.
- ☐ Football Bicycle Valet customers down to 251 from 353 (there was one fewer games that the valet was provided).
- ☐ FY17 Campus Bus Rides: 1,879,704 (up slightly from FY16)
- ☐ FY17 Employee Bus Pass Rides: 1,719,028 (down slightly from FY16)
- ☐ SAFEWalks down slightly to 1,340 from 1388 last year.
- ☐ Zipcar reservation hours up to 47,059 from 37,886 of the previous year.
- ☐ Flex permits continue to be a popular option.
- ☐ B-cycle memberships up to 4,036 from 1,206 last year.
- ☐ Review how revenue is collected for flex parking and decide whether to continue with pay by phone or move to another solution.
- ☐ Reviewed our agreement with B-cycle as the current agreement ended in April 2016. The agreement with B-cycle has been updated.

Transportation Demand Management activities continued for 2016-2017, including the use of the employee bus pass, campus bus, flex parking, and ZipCar again this year.

#### IV. FUTURE TRANSPORTATION ISSUES

- ☐ Monitor development of the Campus Master Plan/Transportation Master Plan recommendations.
- ☐ Explore ways to offset rising costs of all programs.
- ☐ Concerns over rate increase and the effect on the lower paid employees.
- ☐ Improvements PARC (parking access revenue control system).
- ☐ Continue with parking rate conversion process.
- ☐ Review the disabled parking policy for updates and changes.
- ☐ Review the subsidized Madison Metro bus pass policy for updates and changes.
- ☐ Analyze the annual parking assignment process and replace priority systems with an annual permit renewal system.
- ☐ Continue to review changes to the moped policies, permit and parking management.
- ☐ Connect the Flex permits to the garage and ramp gate systems.

#### V. SUMMARY/RECOMMENDATIONS

The CTC recognizes the efforts of Transportation Services to balance the complex and often competing needs of transportation users on campus. As traffic congestion continues to grow in the Madison region, the University, UW Hospital, Dane County, City of Madison, Village of Shorewood Hills, and major employers will need to continue to explore alternatives. The CTC recognizes that cost of operating Transportation Services continues to increase at a rate greater than revenues.

#### VI. COMMITTEE MEMBERSHIP 2016-2017

<b>Faculty</b>	<b>Chancellor Appointee</b>
David Marcouiller, Chair, L&S/ Urban & Region Planning Teresa Adams – Civil & Environmental Engineering Peter Van Kan - Kinesiology	Chris Corrigan , UW Hospitals Shawn Arneson (alternate)
<b>Academic</b>	<b>University Staff</b>
Cameron Scarlett – School of Pharmacy Sara Nagreen – L & S /Mathematics Aaron Crandall – School of Med & Public Health	Dhondpa Dhondup – FP&M Custodial Services Donna Egelski-Div. of student Life/McBurney-Admin Kendall Schneider –L & S/ Chemistry
<b>ASM</b>	<b>Non-voting</b>
Beau Burdett Joshua Durham Benjamin Rolsma	Patrick Kass – Director, Transportation Services Gary Brown, Director, Campus Planning and Landscape Architecture Anne Bogan – Recorder/Administrative Services

Revised 10/26/2017 agb



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## **PROFS, Inc. Annual Report, July 1, 2016 to June 30, 2017**

### **I. CHARGE**

PROFS, the Public Representation Organization of the Faculty Senate, is a non-profit organization established by the Faculty Senate in 1976. The function of PROFS is to represent the UW-Madison faculty's interests – with particular emphasis on compensation and benefits, the university budget, legislation affecting the university and important regulatory issues – before the state legislature, the governor, other state and federal governmental agencies, the U.S. Congress, and the public.

### **II. PARTICIPATION**

PROFS is a voluntary dues-supported organization, funded through payroll deductions by faculty. Contributions are one-tenth of one percent of one's salary deducted once each month in which salary is earned.

### **III. ORGANIZATION**

#### **Leadership**

The elected members of the University Committee serve as the board of directors of PROFS. For the 2016-17 academic year, the following individuals served on the Board of Directors:

- Amy Wendt (Electrical and Computer Engineering), Chair
- Thomas Broman\* (History of Science)
- Ruth Litovsky\* (Communication Sciences and Disorders)
- Anja Wanner (English)
- Richard Amasino\* (Biochemistry)
- Barbara Bowers (Nursing)

Much of the day-to-day work of PROFS occurs under the supervision of the president and steering committee. The 2016-17 members of the PROFS Steering Committee consisted of:

- Judith Burstyn (Chemistry), president, former University Committee member, member of the Faculty Senate
- Michael Bernard-Donals (English and Jewish Studies) former University Committee member
- Bradley Christian (Medical Physics), member of the Faculty Senate
- Murray K. Clayton (Plant Pathology and Statistics), former University Committee member
- Mark Cook (Animal Science), former University Committee member
- Dorothy Farrar Edwards (Kinesiology), former University Committee member, member of the Faculty Senate
- Irwin Goldman (Horticulture), member of the Faculty Senate
- Robert Hamers (Chemistry)
- Kristyn Masters (Biomedical Engineering)
- Beth Meyerand (Biomedical Engineering), former University Committee member
- Donald Moynihan (La Follette School of Public Affairs)
- Grant Petty (Atmospheric & Oceanic Sciences), former president, former University Committee member
- Eric Raimy (English)
- Ronald D. Schultz (Comparative Biosciences), former University Committee member
- William Tracy (Agronomy), former president, former University Committee member, member of the Faculty Senate
- David Vanness (Population Health Sciences)

- Terry Warfield (Business), member of the Faculty Senate
- Timothy Yu (English and Asian American Studies)

Plus University Committee members, noted with an \* above

### **PROFS Bylaws**

The by-laws of PROFS are on file in the PROFS office, 258 Bascom Hall. They specify the University Committee serves as the PROFS board of directors. The steering committee consists of at least three current members of the University Committee; at least three members with prior experience on the University Committee; one or more at-large members selected from the UW-Madison faculty; at least one member from the Faculty Senate; and one member of the Commission on Faculty Compensation and Economic Benefits. Members who do not serve on the University Committee serve three-year renewable terms. Current University Committee members may serve renewable one-year terms.

### **Legislative Representative**

Jack O'Meara continued to serve as PROFS Legislative Representative. He meets regularly with the board of directors and the steering committee to update them on legislative proposals affecting the faculty, establish PROFS' positions on legislation, and determine action. O'Meara also meets with individual legislators and other officials at appropriate times to discuss PROFS issues and urge support of the faculty's position. PROFS arranges for members of the steering committee and other faculty members to meet with legislators, state officials, regents, the media and the general public, and to testify for or against key legislation.

### **Administration**

Michelle Felber is the half-time administrator and website/social media editor. She communicates regularly with faculty with email and through posts to the PROFS website, Facebook, and Twitter. Laura Laurenzi, an outside financial assistant, continued to maintain the financial records and accounts payable of PROFS. The treasurer or president is responsible for check signing. The by-laws were amended in 2011 to require a financial review at least every three years. A financial review was completed in 2014 and is available in the PROFS office for review.

### **Lobbying**

As an organization engaged in lobbying, PROFS is required to register with and report to the State of Wisconsin Government Accountability Board (GAB), filing a lobbying report twice each year. PROFS also reports its interest in any legislative bill, proposal, or budget item, and if it is taking a position, its positions. All reporting is available on the GAB website, gab.wi.gov.

## **IV. COMMUNICATION**

PROFS communicates regularly with all faculty through e-mail updates and posts to the PROFS website (profs.wisc.edu), Facebook (facebook.com/PROFSUWMadison) and Twitter (@PROFSUWMadison). Communication through social media continues to grow. PROFS has more than 500 Twitter followers and Facebook posts are regularly read by hundreds of Facebook users.

## **V. MEMBERSHIP**

PROFS reaches out to new faculty every fall and continues outreach efforts to veteran faculty members. Membership held steady at about 700 members. In cultivating membership, PROFS emphasizes its past achievements, including:

- Help securing \$86 million in state-supported bonding for UW-Madison Chemistry Building project
- Led campaign for pre-tax retirement contributions, saving faculty about \$1,800 per year
- Implementation of first-day health insurance coverage

- A continuing focus on competitive compensation, which in the past led to increased pay plans and catch-up pay plans

PROFS also emphasizes its platform for the future:

- Improved state funding for the UW budget, including competitive compensation for all faculty
- Improved communication between faculty and members of the Legislature
- Increased funding for graduate education and research

For more than 40 years, PROFS has played a key role in advocating for UW-Madison and its faculty. PROFS' sole charge is to advocate on behalf of faculty and needs continued support of the faculty to maintain its efforts. Faculty are always welcome to support PROFS by completing the form in the PROFS brochure or on PROFS web site, [profs.wisc.edu](http://profs.wisc.edu).

## VI. 2016-17 LOBBYING & LEGISLATION: PROFS' ACTIONS AND POSITIONS

PROFS was active during the 2016-17 legislative session, meeting with key legislative and university leaders. PROFS participates in more informal discussions, sending emails, making telephone calls, stopping in offices, and talking with people at meetings and in the halls of the Capitol.

**Legislative Makeup:** Following the November elections, Republicans held historic margins in both houses of the Legislature. In addition to monitoring legislative and budget activity, PROFS engaged in the proactive lobbying activities described below.

**Relationship with the Assembly Majority Leader:** PROFS continued its positive working relationship with Assembly Majority Leader Jim Steineke (R-Kaukauna). Steineke visited campus in March – his second visit in a year – to take part in a PROFS budget forum. Steineke made statewide news at the forum by saying Governor Scott Walker's self-insurance proposal was going nowhere in the Legislature. In June 2016, Steineke met with faculty leaders in the Chemistry Building, took a tour of the existing facilities, learned about the new building, and expressed support for the project.

**Faculty Workgroups:** In order to effectively organize faculty expertise to have an impact on policy, PROFS created workgroups on specific issues. They included:

- **Entrepreneurial University:** This group is comprised of faculty who have started businesses and is charged with looking at ways to help the university do more to encourage entrepreneurial activity. The group was led in 2016-17 by PROFS Steering Committee member Mark Cook and included fellow Steering Committee member Robert Hamers and emeritus professor Rock Mackie.

The group identified the need to change 946.13 of the Wisconsin Statutes. This law regulates how the university contracts with companies in which faculty or other university employees have a financial interest. The law is currently too slow and cumbersome and ultimately leads to lost contracts. PROFS wrote a statement calling for legislation, then drafted statutory language and worked with UW-Madison attorneys on edits. PROFS brought the proposal to Senator Sheila Harsdorf (R-River Falls), chair of the Senate Committee on Universities and Technical Colleges and a member of the Joint Finance Committee, who agreed to have the bill drafted. PROFS met with UW System President Ray Cross and leaders of the Board of Regents, who agreed to support the bill. PROFS also secured the support of Chancellor Blank.

- **Fetal Tissue:** PROFS President Judith Burstyn, Steering Committee member Kristyn Masters and professor Gail Robertson served on the fetal tissue workgroup. This group met with UW-Madison lobbyists, reviewed legislation, and suggested faculty to testify before the Legislature. While none of the bills limiting and/or regulating fetal tissue research was introduced in 2016-17,

proposals were circulated among legislators and discussed. PROFS monitored the activity closely.

- **Redistricting:** Recognizing the university has significant expertise regarding the redrawing of district boundaries and faculty members are playing a major role in the historic case before the U.S. Supreme Court, PROFS began the process of creating a redistricting workgroup. The goal is to be ready to step in with assistance if the court requires the state to redraw boundaries and also to be ready for the next redistricting process following the 2020 Census. PROFS Board member and University Committee member Steve Ventura is familiar with past redistricting work done by the university and has advised PROFS on how to proceed.

PROFS monitored and lobbied on several key issues over the session:

- **Campus Free Speech:** PROFS registered against AB 299, legislation that would require the Regents to adopt a policy on free expression on all two and four-year campuses. This new policy would supersede any previous Regent rules or individual campus policies. Prior to committee action on the bill, PROFS issued a statement opposing the bill and raising questions about a proposed amendment. The statement drew extensive interest and discussion among committee members from both sides of the political aisle in the executive session. The bill passed the Assembly in late June.
- **Self-Insurance:** The Wisconsin Group Insurance Board approved a plan to implement self-insurance for state employees, but the Legislature's Joint Finance Committee rejected it.

**Board of Regents:** The Board of Regents required each UW System institution, including UW-Madison, to develop post-tenure review policies. The Faculty Senate approved UW-Madison's policy in March, which was then approved by the Regents in April.

**2017-19 State Budget:** Work on the state budget began in August as state agencies, including UW System, prepared their budget requests. While Governor Walker asked agencies to plan for a zero increase, UW System put forward a \$42.5 million increase, with more than half the funding directed toward addressing the state's workforce needs and increasing the student pipeline.

Governor Walker's budget, introduced in February, included several items of concern to PROFS:

- Faculty workload reporting
- Performance-based funding
- Freedom of expression on campus
- A student opt-out of allocable segregated fees

The Joint Finance Committee passed an omnibus motion on UW System in late May. PROFS publicly asked the co-chairs to remove two non-fiscal items in the motion – one related to the hiring of top UW administrators, including chancellors, and another related to the governance of the proposed UW-Madison Thompson Center on Public Leadership.

**Pay Plan:** The governor's budget proposal included funding for two 2 percent pay raises – the first effective July 1, 2018 and the second effective January 1, 2019. While the Joint Finance Committee approved the proposal, the Joint Committee on Employment Relations (JCOER), must still approve the plan. Funding for pay plans has long been a priority of PROFS.

## VII. FEDERAL RELATIONS PROGRAM

In her role as a member of Congressman Mark Pocan's higher education advisory committee, President Judith Burstyn continued to meet regularly with Congressman Pocan and his staff to discuss higher

education issues. Pocan is a member of the House Appropriations Committee and serves on the Labor, Health and Human Services and Education Subcommittee. He previously served on the House Education and Workforce Committee.

In June 2017, Burstyn and PROFS lobbyist Jack O'Meara traveled to Washington, D.C. to lobby the Wisconsin congressional delegation on federal funding for research, research flexibility, and federal support for university shared governance. PROFS prepared handouts and arranged meetings in both the Senate and House. Burstyn and O'Meara later took part in the "Madison in D.C." event organized by the Greater Madison Chamber of Commerce in the courtyard of the Rayburn House Office Building.

As part of another trip to D.C. in July 2016, O'Meara met with others involved with lobbying for UW-Madison at the federal level.

## VII. CAMPUS OUTREACH

- **State Budget Forum PROFS:** hosted a campus forum on March 16 to discuss the 2017-19 biennial budget. Assembly Majority Leader Jim Steineke (R-Kaukauna), Ben Miller, Assistant Vice Chancellor for Government Affairs and Strategic Partnerships, and Jack O'Meara served as panelists. About 50 faculty and staff attended the free event, which was also recorded and posted to the PROFS website and Facebook page.
- **Self-Insurance Forum:** PROFS and ASPRO (the Academic Staff Professionals Representation Organization) cosponsored a forum on April 13 to discuss the possibility of the state's possible move to self-insurance and what it might mean for state employees. The panel included UW-Madison School of Business professor Justin Sydnor; Lisa Ellinger, Director of Office of Strategic Health Policy with the Wisconsin Department of Employee Trust Funds; and Peter Farrow, General Manager and CEO of Group Health Cooperative of Eau Claire. The forum, which was also recorded and posted to the PROFS website and Facebook page, attracted about 100 faculty, staff, and retirees.

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## **Restructure the UW-Madison Arts Institute and Change its Name to the UW-Madison Division of the Arts**

The UW-Madison Arts Institute requests to change its name to the “UW-Madison Division of the Arts” as of July 1, 2018, and to establish that its day-to-day affairs will be managed by division staff rather than by faculty governance. Evolutionary changes in the status of the division date back to the founding of the Arts Consortium in 1975 as a cross-departmental committee. The current divisional structure was first proposed by campus leadership in 2013 and approved by the University Academic Planning Council (UAPC) in December 2013. This 2017 proposal to rename and restructure the division has been overwhelmingly supported by the Arts Institute’s partners. There will be no changes in the division’s curricular oversight, which will continue to be provided through a governance committee of division affiliates and by the School of Education. (The Arts Institute has been, in practical terms, increasingly operating as a division since 2014. Integrated Arts courses are designed to supplement the offerings of the arts departments and were approved by the UAPC on Thursday, March 17, 2016.) These proposed changes have no budgetary or academic implications.

The Arts Institute Executive Committee approved this plan on May 2, 2017. The UAPC discussed the name change on November 16, 2017, and approved it, considering the strong letters of support from 8 arts partners (School of Education (its former administrative home), College of Letters & Science, School of Human Ecology, Wisconsin School of Business, Division of Continuing Studies, Graduate School, International Division, and the Nelson Institute).

These proposed changes stem from the conviction that the Division of the Arts should possess the authority, visibility, autonomy, and resources commensurate with its role as the chief unit within the Office of the Provost responsible for connecting the arts within a vital and vibrant research university. In line with other divisions in the Provost’s Office, the Arts Institute will be renamed the “UW-Madison Division of the Arts.” The name also reflects the division’s centrality as a coordinator or sponsor of arts research, collaborative and interdisciplinary teaching/learning, and outreach/service on campus and on a national and global scale. It also provides a sense of continuity while eliminating the ongoing confusion of the Arts Institute with the Art Institute of Chicago.

There will be changes to the structure of the new division to fully realize its status as a Division of the Arts, structurally independent from the arts departments and colleges, reporting to the Provost. The Director and division staff (Senior Management Team) will manage the day-to-day affairs and varied programs of the division. A Transition Committee will move the division to its new structure and will define a single governance body to provide oversight of the Integrated Arts course subject listing, new Integrated Arts course requests, and the Interdisciplinary Arts Residency Program. Membership of this body will be at least two-thirds faculty, include staff and student representatives, and foster representation of the major areas of study and activity in the arts on campus. Stakeholders will engage with and support the Division of the Arts by becoming Affiliates or by joining an External Advisory Board; affiliates will connect through a flexible structure of Interest Groups.

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**Proposal to Create *Faculty Policies and Procedures* 4.40.  
Divisional Committee Review Council**

The new campus post-tenure review policy provides for a faculty-driven process starting in the department and proceeding to the dean. If the dean and department are in agreement, the PTR process concludes for that cycle. If the dean and department disagree, the provost performs a review, which must include consultation with a faculty committee called the “divisional committee review council.”

**7.17. POST-TENURE REVIEW POLICY**

**C. Procedures**

7. If the post-tenure review is not concluded at the dean’s level per 6.a. or 6.b. above, upon receipt of the dean’s recommendation, the provost will perform their own review, including consultation with the divisional committee review council (DCRC), which also will be provided with the executive committee recommendation, the dean’s recommendation, and any faculty responses. The provost shall request advice from the DCRC within 5 days of receiving the dean’s recommendation and the council will provide their advice within 30 days of receiving the request from the provost.

The provost has indicated that this committee could be helpful with other tenure-related activities. In order to meet the needs of the PTR policy and other tenure-related activities, the following is proposed.

**[ADD/NEW] FPP 4.40. DIVISIONAL COMMITTEE REVIEW COUNCIL**

**A. Membership**

The Divisional Committee Review Council (DCRC) shall consist of four faculty members, one from each faculty division, selected by the relevant divisional executive committee in April or May of each year to serve on the DCRC the following year. Anyone who has completed a full term on the divisional committee is eligible for selection. The DCRC shall select its own chair, except when the DCRC is consulted under section 7.17.C.7., in which case it shall be chaired for the purposes of that consultation by the member from the same division as the post-tenure review case.

In PTR cases (under 7.17.C.7.) where a member of the committee is from the same department as the individual being reviewed, the committee member is disqualified from participation and the University Committee shall select a replacement for the duration of that case from among members of past divisional executive committees. Any such disqualification does not create a vacancy on the committee, but the replacement member shall sit on the committee until termination of the case.

**B. Functions**

The DCRC serves as a consultative resource to the provost on matters relating to tenure, including promotion review and post-tenure review (under section 7.17.C.7.).

**[MODIFY] 6.12. APPEAL FROM AND REVIEW OF COMMITTEE DECISIONS.**

D. The provisions of 6.12.A., 6.12.B. and 6.12.C. do not apply to actions taken by the following committees: Committee on Committees, Divisional Committee Review Council, Faculty Rights and Responsibilities, Consultative Committee on Financial Emergency, Honorary Degrees, Kemper Knapp Bequest, Lectures, Search and Screen, and University Press.

## **Proposal to Retire the Research, Safety, and Compliance Oversight Committee and Merge Its Functions into the University Research Council.**

Proposal – Formally retire the Research, Safety, and Compliance Oversight Committee and merge its functions into the University Research Council (URC). As the shared governance body charged with working on the overall research mission of campus, the URC is the appropriate place for these functions. It is understood that the URC may not become directly involved in resolving problems, but rather will serve an oversight function that may include directly intervening, but will more often involve assuring that the proper campus unit is addressing the issue appropriately.

Current charge of Research, Safety, and Compliance Oversight Committee (*Faculty Policies and Procedures* 6.58.):

### **B. FUNCTIONS.**

1. Provide advice and consultation to the Office of Research Policy, the Office of Research and Sponsored Programs, and to the institution's safety and compliance units.
2. Receive and process inquiries and complaints from research investigators, including faculty, staff, employees-in-training and students, regarding institutional processes, policies and procedures that adversely impact the conduct of their research.
3. Ensure effective and rapid resolution of problems involving research, safety and compliance

Mark-up of *FPP* 6.58. merged into *FPP* 6.59. (University Research Council)

### **B. FUNCTIONS.**

1. Advises the vice chancellor for research and graduate education (VCRGE) on the overall UW-Madison research enterprise, including, but not limited by enumeration, to:
  - a. Strategic planning to maximize the research productivity of faculty and staff, and to support highly innovative, transformative research.
  - b. Allocation of flexible resources, including resources provided by WARF, such as support of research competitions, matching funds for grants, funding for recruitment and retentions, and honoring research contributions.
  - c. Major campus-wide research programs and issues.
  - d. Compliance processes and committees.
  - e. Approving policies governing five-year reviews for VCRGE centers to ensure that centers remain at the leading edge of new discoveries. Members of the URC will provide advice to the VCRGE regarding the outcome of Center reviews.
  - f. Review and approval of the establishment of new, and closing of existing, VCRGE centers.
2. Advises and consults with the Office of Research Policy, the Office of Research and Sponsored Programs, and other safety and compliance units.
3. Receives and processes inquiries and complaints from research investigators, including faculty, staff, employees-in-training, and students, regarding institutional processes, policies, and procedures that adversely impact the conduct of their research, ensuring effective and rapid resolution of problems involving research, safety, and compliance.
- 4.2- Brings to the attention of the VCRGE views and opinions of the faculty and staff. In turn, members are responsible for assisting the Office of the VCRGE in helping to communicate the research resources of the VCRGE office.



5.3: Advises and counsels the VCRGE and the chancellor in the formulation of the annual request to the WARF board of trustees. The VCRGE and chancellor shall routinely seek the advice and counsel of the committee regarding the allocation and disposition of WARF funds. Ensures that the disposition of WARF funds by the university is transparent to the WARF board of directors. The committee, or its individual members, shall be available to the WARF board of trustees, upon request, as direct and independent advisors and as such shall share with the trustees their expertise and insight.

6.4: Creates subcommittees to study specific topics, as needed.

No mark-up:

*Faculty Policies and Procedures 6.59*

**B. FUNCTIONS.**

1. Advises the vice chancellor for research and graduate education (VCRGE) on the overall UW-Madison research enterprise, including, but not limited by enumeration, to:

- a. Strategic planning to maximize the research productivity of faculty and staff, and to support highly innovative, transformative research.
- b. Allocation of flexible resources, including resources provided by WARF, such as support of research competitions, matching funds for grants, funding for recruitment and retentions, and honoring research contributions.
- c. Major campus-wide research programs and issues.
- d. Compliance processes and committees.
- e. Approving policies governing five-year reviews for VCRGE centers to ensure that centers remain at the leading edge of new discoveries. Members of the URC will provide advice to the VCRGE regarding the outcome of Center reviews.
- f. Review and approval of the establishment of new, and closing of existing, VCRGE centers.

2. Advises and consults with the Office of Research Policy, the Office of Research and Sponsored Programs, and other safety and compliance units.

3. Receives and processes inquiries and complaints from research investigators, including faculty, staff, employees-in-training, and students, regarding institutional processes, policies, and procedures that adversely impact the conduct of their research, ensuring effective and rapid resolution of problems involving research, safety, and compliance.

4. Brings to the attention of the VCRGE views and opinions of the faculty and staff. In turn, members are responsible for assisting the Office of the VCRGE in helping to communicate the research resources of the VCRGE office.

5. Advises and counsels the VCRGE and the chancellor in the formulation of the annual request to the WARF board of trustees. The VCRGE and chancellor shall routinely seek the advice and counsel of the committee regarding the allocation and disposition of WARF funds. Ensures that the disposition of WARF funds by the university is transparent to the WARF board of directors. The committee, or its individual members, shall be available to the WARF board of trustees, upon request, as direct and independent advisors and as such shall share with the trustees their expertise and insight.

6. Creates subcommittees to study specific topics, as needed.

**Proposal to update *Faculty Policies and Procedures* Chapter 11 (“Summer Session”)**

**CHAPTER 11: SUMMER SESSION TERM**

**11.01. SUMMER ~~SESSIONS~~ TERMS.**

There shall be summer ~~sessions~~ terms of such lengths as may be approved by the chancellor.

**11.02. SUMMER ~~SESSION~~ TERM ADMINISTRATION.**

A. The ~~director~~ Dean of the ~~Summer sessions~~ Term is appointed by the ~~chancellor~~ Provost and Vice Chancellor for Academic Affairs and acts as the general coordinating officer, ~~with specific responsibility for publications related to the summer sessions.~~ The Dean of the Summer Term may appoint a staff to provide campuswide support and coordination for summer term activity.

B. Each school and college shall appoint a summer dean to participate in campuswide planning for summer term.

~~B. C.~~ C. After academic departments and their respective college deans identify the appropriate array of the educational programming for summer term, has been effected by the departments and the college deans, the deans submit programs and budgets to the Dean of the Summer Term ~~chancellor through the director.~~ After the budget has been approved, appointments and payrolls are administered by the departments in the same manner as during the regular academic year.

**11.03. SUMMER ~~SESSION~~ TERM COMPENSATION.**

~~For full service in a summer session rendered by a member of the faculty, the compensation shall be at the rate of one ninth of the previous academic year’s salary for each four weeks of service.~~ All summer work performed by 9-month faculty, academic staff, and limited appointees requires prior approval by the individual’s appointing unit and dean or director office. For instructional service in summer term, divisions establish workload practices with their departments. Determining workload typically takes into account the length of the summer term and the number of credits taught. Compensation for part-time service ~~shall be appropriately~~ will be prorated. Cancellation clauses based on low enrollment can be included in appointment agreements.

**11.04. ~~DEFERRAL OF SUMMER SESSION~~ COMPENSATION.**

A. ~~By depositing salaries, earned by teaching in the summer sessions, in the Summer Sessions Deposits of the University Trust Funds, members of the university faculty (as defined in 1.02.) may defer compensation for that session(s) to a later academic term during which they have no other university compensation; however, deferred compensation under this program may not be taken in summer.~~

B. ~~For full service in summer sessions, in lieu of money compensation, members of the university faculty may be paid full salary at some future time at the rate of one semester’s salary for teaching twelve weeks in summer sessions, and one academic year’s salary for teaching twenty-four weeks in summer sessions.~~

C. ~~Participation in the accumulated leave program is available only to university faculty on academic year appointments.~~

~~D. At the close of each summer session(s), those faculty members who are eligible to make deposits may endorse their checks and deliver them to the university trust officer for deposit in the Summer Sessions Account.~~

~~E. Twelve weeks of summer salary is the maximum that may be deposited in any one year. The maximum amount of summer salary deposits which may be accumulated at any one time by any one individual is twenty four weeks.~~

~~F. A semester's payment under this program may occur only once in three years; a year's payment only once in six years. The one year's deferred compensation earned under this plan must be utilized within five years.~~

~~G. Faculty members may, upon due notice in writing, withdraw their deposits in cash, thus canceling their deferred compensation credit. In the event that they have several deposits and desire to withdraw only a part of them, the deposits will be paid in the order of their age, the oldest deposit being paid first.~~

~~H. It is not the policy of the university to pay deferred compensation when the deferral period is to be used for teaching elsewhere or for engaging in other salaried occupations.~~

~~I. When faculty members retire, die, or withdraw their deposits before using accumulated credits, they or their estates shall receive the amount of salary deposited at the time the summer work was done, plus interest.~~

~~J. Deposits made prior to 1961 are subject to the rules as they appear in the 1960 Laws and Regulations Governing The University of Wisconsin. Deposits made between 1961 and June 30, 1967, are subject to the revised regulations approved by the Board of Regents December 9, 1960. Deposits made on or after July 1, 1968, are subject to the revised regulations approved by the Board of Regents on March 15, 1968, and deposits made after July 1, 1978, are subject to the provisions of these rules.~~

#### 11.04. SUMMER TERM APPOINTMENTS.

Any work performed by 9-month faculty or staff teaching summer term is voluntary and subject to employee's agreement. To ensure appropriate staffing to support summer term instructional activities, departments and colleges may pursue a variety of staffing options.

- A. OVERLOAD. An employee may agree to perform duties outside of their normal work assignments. In these circumstances, an overload request – identified as employment beyond 100 percent – may be approved if the need for additional compensation can be sufficiently demonstrated. Summer employment for 9-month employees is not considered an overload. In limited situations, 9-month employees may receive an overload in addition to the summer session or service payment.
- B. DUAL ROLE WAIVER. Schools and colleges may allow research scientists and researchers to work in a teaching capacity during summer term, so long as the employee and supervisor have considered and documented the funding implications and effort reporting requirements. Prior approval is also required if the dual role creates an overload.

**No mark-up:**

**CHAPTER 11: SUMMER TERM**

**11.01. SUMMER TERMS.**

There shall be summer terms of such lengths as may be approved by the chancellor.

**11.02. SUMMER TERM ADMINISTRATION.**

- A. The Dean of the Summer Term is appointed by the Provost and Vice Chancellor for Academic Affairs and acts as the general coordinating officer. The Dean of Summer Term may appoint a staff to provide campuswide support and coordination for summer term activity.
- B. Each school and college shall appoint a summer dean to participate in campuswide planning for summer term.
- C. After academic departments and their respective college deans identify the appropriate array of educational programming for summer term, the deans submit programs and budgets to the Dean of the Summer Term. After the budget has been approved, appointments and payrolls are administered by the departments in the same manner as during the regular academic year.

**11.03. SUMMER TERM COMPENSATION.**

All summer work performed by 9-month faculty, academic staff, and limited appointees requires prior approval by the individual's appointing unit and dean or director office. For instructional service in summer term, divisions establish workload practices with their departments. Determining workload typically takes into account the length of the summer session and the number of credits taught. Compensation for part-time service will be prorated. Cancellation clauses based on low enrollment can be included in appointment agreements.

**11.04. SUMMER TERM APPOINTMENTS.**

Any work performed by 9-month faculty or staff teaching summer term is voluntary and subject to employee's agreement. To ensure appropriate staffing to support summer term instructional activities, departments and colleges may pursue a variety of staffing options.

- A. **OVERLOAD.** An employee may agree to perform duties outside of their normal work assignments. In these circumstances, an overload request – identified as employment beyond 100 percent – may be approved if the need for additional compensation can be sufficiently demonstrated. Summer employment for 9-month employees is not considered an overload. In limited situations, 9-month employees may receive an overload in addition to the summer session or service payment.
- B. **DUAL ROLE WAIVER.** Schools and colleges may allow research scientists and researchers to work in a teaching capacity during Summer Term, so long as the employee and supervisor have considered and documented the funding implications and effort reporting requirements. Prior approval is also required if the dual role creates and overload.

### **Endorsement of UW-Madison Policy on Sexual Harassment and Sexual Violence**

**WHEREAS**, the Faculty Senate has passed multiple resolutions on sexual misconduct<sup>1</sup>, culminating in *Faculty Legislation* II-303, prohibiting sexual favors as a basis for actions affecting an individual's welfare as a student or employee;

**WHEREAS**, UW System has provided a policy template on sexual misconduct that each campus must use as a guide for their campus policy on sexual harassment and sexual violence;

**WHEREAS**, the Provost's Advisory Committee on Sexual Misconduct (PAGSAM) reviewed the template and provided the policy below to the Provost, who in turn approved it;

**WHEREAS**, many elements of the policy below are required by federal law and/or the UW System template, including the designation of certain employees as having required reporting responsibilities and including the requirement for all students and employees to receive primary prevention training;

**WHEREAS**, UW-Madison has built and implemented a custom training module for this campus;

**WHEREAS**, this single overarching campus policy serves as an expression of the commitment of the UW-Madison campus community to a safe and inclusive workplace;

**Therefore be it resolved, the Faculty Senate endorses the UW-Madison Policy on Sexual Harassment and Sexual Violence.**

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<sup>1</sup> Fac Doc 458a (2 November 1981); Fac Doc 758 (2 May 1988); Fac Doc 786 (6 February 1989) and Fac Doc 1402c (1 March 1999)

## UW-Madison Policy on Sexual Harassment and Sexual Violence

Effective Date:

Last Reviewed: New

Next Review: July 1, 2020

<b>Functional Owner</b>	Title IX Coordinator
<b>Executive Sponsor</b>	Provost, Vice Chancellor for Finance and Administration, Vice Chancellor for Legal Affairs, Office of Compliance
<b>Policy Contact</b>	Title IX Coordinator

### **I. Purpose of Policy**

The mission of the University of Wisconsin-Madison (University) is to provide a teaching, learning and working environment in which faculty, staff, students, and guests can discover, examine critically, preserve, and transmit knowledge, wisdom, and values that will improve the quality of life for all. To promote the institutional mission, the University is committed to creating and maintaining a campus community that is free from sexual harassment and sexual violence.

### **II. Policy Statement**

This policy prohibits acts of sexual harassment and sexual violence (including sexual assault, dating violence, domestic violence, and stalking) in all educational programs and activities of the University. Individuals who engage in such acts, hereafter referred to collectively as sexual harassment and sexual violence, are in violation of this policy and are subject to disciplinary action. This policy also prohibits retaliation against individuals who report sexual harassment or sexual violence, who assist others in reporting, or who participate in University proceedings related to such a report. Individuals who engage in retaliation are subject to disciplinary action.

The University will provide appropriate education about sexual harassment and sexual violence and this policy. All participants in University programs and activities are responsible for helping to ensure that our campus community is kept free of sexual harassment and sexual violence by refraining from engaging in such conduct, completing required training, and complying with reporting requirements when they become aware of sexual harassment or sexual violence.

Individuals who are subjected to acts of sexual harassment or sexual violence in violation of this policy are encouraged to report these incidents. All complaints will be treated seriously and investigated fully using a trauma-informed approach. Individuals who experience sexual harassment and sexual violence will be provided access to appropriate resources regardless of their decision to report.

### **III. Scope of Policy**

This policy applies to:

- A. University programs and activities held both on and off campus, including those held in other municipalities, states, and nations.
- B. All students while they are on campus or if their off-campus conduct meets any of the following criteria:
  - 1. The conduct constitutes or would constitute a serious criminal offense, regardless of the existence of any criminal proceedings;
  - 2. The conduct indicates that the student presented or may present a danger or threat to the health or safety of self or others; or
  - 3. The conduct demonstrates a pattern of behavior that seriously impairs the University's ability to fulfill its teaching, research, or public service missions. (UWS Chapter 17.02(14) and 17.08).

- C. All other members of the University community (including, but not limited to: employees, volunteers, visitors, guests, contractors, and third-party vendors) while they are on campus or engaged in activities associated with University programs and activities.

#### **IV. Definitions**

For a list of definitions of terms used in this policy, see Appendix A.

#### **V. Conduct Prohibited by this Policy:**

The conduct listed below is prohibited by this policy. For definitions, see Appendix A, “Prohibited Conduct.”

- A. Sexual Discrimination
- B. Sexual Harassment
- C. Sexual Assault
- D. Dating Violence
- E. Domestic Violence
- F. Stalking
- G. Retaliation
- H. Providing false information to a reporting or investigatory office.
- I. Refusal to comply with a reasonable request on a University matter.

#### **VI. Resources**

- A. Confidential Resources for those who have experienced sexual harassment or sexual violence

Anyone who has been subjected to sexual harassment or sexual violence can access available confidential resources for assistance and support including medical care, mental health counseling, victim advocacy, and access to accommodations and protective measures. These resources are available regardless of whether the person chooses to report the violation to the University, law enforcement, or any other agency. For a list of confidential resources available on campus and in the community, see Appendix B.

- B. Resources for all members of the University community impacted by sexual harassment or sexual violence

In addition to the resources above, anyone impacted by sexual harassment or sexual violence on campus or who become involved in the University investigatory or disciplinary process – including complainants, respondents, and witnesses – has access to confidential and non-confidential campus resources available to assist. Students may contact the Dean of Students Office or the Title IX Coordinator to learn more about the process, including their rights and obligations. Students may also contact University Health Services (UHS) for confidential mental health services. Employees may also contact the Title IX Coordinator for process information, as well as the Employee Assistance Office for confidential services. To read more about the roles of these individual resources, see section IX of this policy, Role and Duties of University Offices, Employees, and Organizations.

#### **VII. Reporting Options**

Anyone who has been subjected to sexual harassment or sexual violence or any other violation of this policy, has options for reporting the violation, including the option not to report. For those who choose to report, the following offices are available to receive reports alleging violations of this policy:

- A. Title IX Coordinator: The Title IX Coordinator is available to receive any reports alleging violations of this policy.  
Lauren Hasselbacher 354 Bascom Hall, (608) 890-3788  
[titleix\\_coordinator@wisc.edu](mailto:titleix_coordinator@wisc.edu) Office of Compliance/Title IX

- B. Dean of Students Office: The Dean of Students Office is available to receive reports alleging violations of this policy by students.  
Dean of Students Office 70 Bascom Hall, (608) 263-5700  
[dean@studentlife.wisc.edu](mailto:dean@studentlife.wisc.edu) Dean of Students
- C. Office of Workforce Relations: The Office of Workforce Relations is available to receive reports alleging violations of this policy by employees.  
Workforce Relations  
Office of Human Resources 21 N. Park Street, Suite 5101, 608-265-2257  
[wr@ohr.wisc.edu](mailto:wr@ohr.wisc.edu) Workforce Relations

An individual may make a report to one or more of the offices or individuals noted in this section. When a report is made to more than one of the offices noted above, the offices will coordinate as they are able and attempts will be made to limit the number of times a complainant or respondent is required to repeat information about the allegations.

In addition to constituting violations of this policy, acts of sexual harassment and sexual violence might also constitute criminal conduct that violates Wisconsin statutes. Regardless of whether these acts are reported to the University, anyone who has been subjected to sexual harassment or sexual violence has the option of reporting to law enforcement. The following law enforcement agencies are available to receive reports:

- E. University of Wisconsin-Madison Police Department (for on-campus incidents)  
1429 Monroe Street, (608) 264-2677 or 911 UWPD
- F. Madison Police Department (for off-campus incidents in the City of Madison)  
211 S. Carroll Street (608) 261-9694 or 911 MPD

For incidents that occurred off-campus, outside of the City of Madison, the University of Wisconsin-Madison Police Department can help identify the relevant law enforcement agency to receive a report.

Violations of Title IX may be reported directly to the U.S. Department of Education, Office for Civil Rights (OCR). A person **does not** have to utilize the University's procedures for addressing sexual harassment and sexual violence before filing with OCR.

- E. Office for Civil Rights, Chicago Office  
U.S. Department of Education Citigroup Center  
500 W. Madison Street, Suite 1475  
Chicago, IL 60661-4544  
Telephone: (312) 730-1560  
Facsimile: (312) 730-1576 Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

#### **VIII. Investigatory and Disciplinary Procedures**

Reports alleging violations of this policy will be addressed using the applicable University investigatory or disciplinary procedures. The procedures that will be used will be based on the relationship of the respondent with the University.<sup>2</sup>

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<sup>2</sup> The University procedures pertaining to faculty, academic staff, and University staff are currently being revised. While these revisions are being completed, the University will ensure that its response to complaints pursuant to this policy include the required elements of equal treatment. Specifically, in all investigatory and disciplinary proceedings for sexual harassment or sexual violence, the determination of whether this policy was violated will be based on the preponderance of available evidence. The complainant and the respondent will be afforded an equal opportunity to present information to be considered during the process, to identify other sources of information to support their position, to be accompanied by a support person of their choosing throughout the process, and to receive a written notice of the outcome of each stage of the process. Where appeal rights are provided, the complainant and the respondent will have equal appeal rights.



- A. When the respondent is a *student*, the University will use the investigatory and disciplinary procedures set forth in Chapter 17 of the University of Wisconsin Administrative Code (UWS).
- B. When the respondent is a *faculty member*, the University will use the investigatory and disciplinary procedures set forth in Chapters 4 and 7 of the UWS and Chapter 9 of the University's Faculty Policies and Procedures.
- C. When the respondent is a *member of the academic staff*, the University will use the investigatory and disciplinary procedures set forth in Chapter 11 of the UWS and in Chapter 6 and Chapter 9<sup>3</sup> of the University's Academic Staff Policies and Procedures.
- D. When the respondent is a *member of the University staff*, the University will use the investigatory and disciplinary procedures set forth in the Corrective Progressive Discipline for University Staff policy (CPP 18.01).
- E. When the respondent is a *limited appointee or an academic staff member or University staff member in their initial evaluation period (i.e., probationary period)*, the respondent's supervisor, in consultation with the Title IX Coordinator and, if appropriate, the employing unit's human resources staff and/or the central campus Office of Human Resources staff will determine the appropriate course of action.
- F. When the respondent is a *student employee, graduate assistant, or employee in training* (i.e., student hourly, teaching assistant, research assistant, project assistant, resident, post doc, or fellow) and is alleged to have engaged in the misconduct in their role as an employee, the respondent's supervisor in consultation with the Title IX Coordinator and, if appropriate, the employing unit's human resources staff and/or the central campus Office of Human Resources staff, will determine the appropriate course of action.
- G. A complainant can request that the Office of Compliance conduct an investigation a) if the respondent is a participant in the University's programs or activities who does not fall into any of the above categories, or b) if the respondent is an employee and one of the above investigatory procedures is not initiated. The Office of Compliance will investigate the alleged violation using its established complaint procedures.

When the respondent falls into more than one of the categories described in this section, multiple procedures may be utilized to determine appropriate disciplinary outcomes for each of the respondent's statuses. For example, if a respondent is both a student and an academic staff member, the University will follow UWS Chapter 17 to assess whether to impose discipline on the respondent's student status and the University will follow Chapter 11 of the UWS and Chapters 6 and 9 of the Academic Staff Policies and Procedures to assess whether to impose discipline on the respondent's academic staff status.

## **IX. Rights**

### **1. Accommodations and Protective Measures**

Regardless of whether an incident of sexual harassment or sexual violence is reported to the University for the purpose of initiating a disciplinary proceeding, the University will work with individuals who experience sexual harassment and/or sexual violence to undertake appropriate measures to promote their safety and wellbeing. These may include, but are not limited to, no-contact directives, academic or work modifications, and adjustments to living spaces for those who live in a campus-operated facility or to working spaces for employees of the University.

The University will maintain as confidential any accommodations or protective measures

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<sup>3</sup> When the revised procedures for academic staff are completed, these procedures will be found in Chapter 16

provided as required or authorized by law and to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures. (No- contact directives are not confidential, as they must be communicated to the respondent in order to be effective.)

**2. Amnesty**

Complainants and witnesses to incidents of sexual harassment or sexual violence will not generally be issued citations or be subjected to disciplinary sanctions for conduct at or near the time of the incident that would violate University policies regarding alcohol or the personal use of drugs unless the University determines that the violation of University policy exposed others to serious risks to their health and safety. [See also: Wisconsin Sexual Assault Victim Amnesty Law]

**3. Confidentiality**

Complainants seeking a confidential consultation about protective measures or options for reporting to the University or law enforcement may contact one or more of the confidential resources listed in Appendix B to this policy.

Persons who report to any of the individuals or offices mentioned in Section VI of this policy or to any other non-confidential University employee cannot be assured the information they report will remain completely confidential due to the reporting requirements described in Section X of this policy.

Information provided in a non-confidential report or any investigatory or disciplinary proceeding will be maintained in a secure manner. If a University investigatory or disciplinary process is initiated, the respondent will be informed of the identity of the complainant and the nature of the allegations.

The University may be required to release records pursuant to the Wisconsin Public Records law, subpoenas, governmental investigations, or other legal process. When responding to requests pursuant to the Wisconsin Public Records law, the University will redact personally identifiable information about complainants. Records containing personally identifiable information about students will only be disclosed to the extent permissible by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA).

**4. Prompt and Equitable Resolution**

The offices and University officials responding to a report of sexual harassment or sexual violence pursuant to this policy will endeavor to resolve the matter in a prompt and equitable manner in accordance with the applicable procedures, taking into consideration the nature and complexity of the report and procedural due process requirements. The complainant and the respondent will be advised of any delays that occur during the process.

**5. Potential Sanctions**

The procedures identified above provide for disciplinary action against anyone found responsible for violating this policy. The nature of the disciplinary action will be based on the preponderance of the evidence uncovered during the disciplinary process and will take into account several factors, including the nature and severity of the incident, the sanctions available pursuant to the Disciplinary Procedures outlined in Section VI above, and any past disciplinary history of the respondent. For students, sanctions may include, but are not limited to, restrictions on a course or program, probation, suspension, or expulsion. (Chapter UWS 17.10 provides a more comprehensive list of potential sanctions against students.) For employees, sanctions may range from a written warning to dismissal from employment. For program participants, sanctions may include restrictions upon participation in or exclusion from the program. For visitors to campus, sanctions may include a ban from portions or all of campus.

**6. Notice of Outcome**

Both the complainant and the respondent will be provided with written notice of the outcome of each stage of the applicable disciplinary process and of the final resolution of the investigation and recommended sanction.

**X. Role and Duties of University Offices, Employees, and Organizations**

**A. Title IX Coordinator**

The duties of the UW-Madison Title IX Coordinator are described in the institutional position description. The duties include: receiving reports of sexual harassment and sexual violence; maintaining appropriate records; providing or supporting the provision of appropriate education and training; maintaining ongoing communication with any Deputy Title IX Coordinators and relevant University committees; ensuring that applicable policies, resources, and other information are up-to-date and properly disseminated; and as appropriate, investigating allegations of sexual harassment and sexual violence, in which the Title IX Coordinator will be guided by principles of trauma-informed care and impartiality.

**B. Title IX Deputies**

The Title IX Coordinator has designated several Title IX Deputies to assist the work of the Coordinator described above. These staff are trained on Title IX policy, procedures, and can provide information and answer questions about Title IX.

**C. Provost's Advisory Group on Sexual Assault and Misconduct (PAGSAM)**

PAGSAM provides overarching leadership on campus efforts to prevent and respond to sexual assault and sexual violence (including, but not limited to: sexual harassment, dating and domestic violence, and stalking). The group advises senior campus leaders and ensures the coordination of campus prevention, policies, response, assessment, and accountability measures.

**D. University Health Services (UHS)**

UHS provides comprehensive services aimed at preventing violence *before* it happens and helping address the needs of victims of sexual harassment, sexual assault, dating violence, domestic violence, or stalking *after* it happens. UHS provides medical care, mental health counseling, victim advocacy, and campus-wide prevention and education. UHS is responsible for providing and ensuring compliance with all required student trainings as well as a range of education and prevention efforts. UHS provides consultation and technical assistance throughout campus on violence prevention and education.

**E. Dean of Students Office (DoSO)**

DoSO, a department in the Division of Student Life, is a place where students can report sexual harassment and sexual violence. DoSO is available to support students affected by these forms of violence by referring students to resources, helping them request accommodations, and supporting them throughout relevant disciplinary or criminal processes (if applicable).

**F. The Office of Student Conduct and Community Standards (OSCCS)**

OSCCS, another department in the Division of Student Life, adjudicates cases of sexual harassment and sexual violence involving student respondents that are investigated by the Title IX Coordinator.

**G. Office of Human Resources (OHR)**

The Office of Human Resources provides programmatic and consultative HR services to the UW-Madison community, which includes developing and assisting with strategies to attract, develop, engage, and retain the faculty and staff needed for the campus to excel as a leading research and teaching institution. As part of its mission, OHR is a resource to support and

provide guidance on effective methods to prevent sexual harassment and sexual violence. OHR's responsibility also includes consulting with and advising colleges, schools, and divisions on appropriate action steps when a violation of this policy involves an employee or otherwise impacts the workplace.

**H. Employee Assistance Office (EAO)**

The EAO provides timely assistance to faculty and staff, and their family members or significant others as they work through life changes, chronic physical, emotional health issues, and work/life balance concerns. This service is provided free of charge and is completely confidential. Some of the services provided include, problem consultation/assessment, information about community resources, educational programs and individual referrals.

**I. Office of Compliance (OC)**

OC investigates formal allegations of sex discrimination, including sexual harassment and sexual violence covered by this policy. The University Equal Opportunity Complaint Investigator and Title IX Coordinator both work within the OC. The Equal Opportunity Complaint Investigator investigates when the respondent is an employee and the Title IX Coordinator investigates when the respondent is a student. The Title IX Coordinator also supports training and policy development in matters related to sex discrimination, including sexual harassment and sexual violence.

**J. University Police Department, Clery Program**

The University of Wisconsin-Madison Police Department (UWPD) is responsible for coordinating Clery Act compliance for UW-Madison. In collaboration with other campus units, UWPD's Clery Program Director and Assistant Director have the following responsibilities: collecting crime data and information, compiling the Annual Security Report and Annual Fire Safety Report, publishing the daily Clery Crime and Fire Log, coordinating identification and training of UW-Madison's Campus Security Authorities, and providing guidance for the issuance of timely warnings and emergency notifications. UWPD also manages the two Clery Act committees at UW-Madison: the Clery Act Leadership Committee, which is chaired by the Chief of Police, and the Clery Act Working Committee, which is chaired by the Clery Program Director.

**K. Schools, Colleges, and Divisions**

School, college, and divisional leadership have responsibility for supporting the implementation of this policy throughout their unit. This includes identifying individuals with reporting responsibilities, promoting and facilitating required campus training, referring employees and students to on- and off-campus resources as appropriate and cooperating with campus investigations.

**XI. Reporting Responsibilities**

**A. Title IX Responsible Employees (applies to all forms of sexual harassment and sexual violence)**

Title IX Responsible Employees have a duty to report to the Title IX Coordinator any information they receive that suggests a violation of this policy has occurred or is occurring. They are not allowed to keep information reported to them suggesting such a violation has occurred or is occurring confidential. These employees are required to:

1. Be familiar with the definitions of sexual harassment and sexual violence;
2. Be familiar with this and other related policies;
3. Be familiar with confidential and other resources on campus and in the community to which to refer a reporting individual;
4. Be familiar with the duty to report information they receive about potential acts of sexual harassment or sexual violence to the Title IX Coordinator and be prepared to

explain this duty to anyone who is considering reporting such information to them. Please see Appendix A for a definition of individuals considered to be Title IX Responsible Employees.

**B. Campus Security Authorities (CSAs) (applies to certain campus crimes, including all forms of sexual violence)**

Campus Security Authorities are responsible for reporting to the University Clery Program certain campus crimes that are reported to them, including all forms of sexual violence. CSAs are not allowed to keep information reported to them suggesting a campus crime has occurred confidential.

CSAs are trained annually to identify which crimes they are responsible for reporting and how to report those crimes to the Clery Program.

Please see Appendix A for a definition of individuals considered to be Campus Security Authorities.

**C. All Employees**

**1. Wisconsin Statute § 36.11(22)(c) (applies to sexual assault)**

Any University employee who witnesses an act of sexual assault, or who receives a first-hand report of sexual assault from an enrolled student, must report that information to the Office of Student Conduct and Community Standards, in the Division of Student Life. The Dean of Students, or designee, shall compile reports for the purpose of disseminating statistical information. Confidential employees, as defined in this policy, are only required to report the occurrence of the sexual assault and are not required to provide any identifying information or details about the individuals involved.

**2. Executive Order #54 (applies to child abuse and neglect)**

Executive Order #54 (EO 54) requires any University employee (other than employees who are mandatory reporters covered by Wis. Stats. § 48.981(2)(a)) to make a report of child abuse (including sexual abuse) or neglect immediately if, in the course of employment, the employee observes an incident or threat of child abuse or neglect, or learns of an incident or threat of child abuse or neglect, and the employee has reasonable cause to believe that child abuse or neglect has occurred or will occur. A report is required regardless of where the incident or threat of child abuse or neglect occurred (i.e., reporting is required if the abuse occurs on campus or in the child's home). The report must be made to the University of Wisconsin-Madison Police Department, Dane County Child Protective Services (CPS), or the City of Madison Police Department.

If the incident or threat of child abuse or neglect involves an allegation against a University employee or agent (e.g. student, volunteer, etc.), or the incident or threat of child abuse or neglect occurred on campus or during a University sponsored activity, *in addition to notifying law enforcement or CPS*, the reporter must also notify one of the following offices: The Office for Equity and Diversity (primary) or UW Police Department (outside of normal business hours).

The UW-Madison Policy on Mandatory Reporting of Child Abuse and Neglect can be accessed [here](#).

**XII. Education and Training**

**A. Campus Training Requirements**

All students and employees will be required to complete the campus-supported training addressing issues of sexual harassment and sexual violence. More in-depth training will be provided and required for employees identified as: Title IX Responsible Employees, Campus Security Authorities under the Clery Act, as well as any other employees who have direct responsibilities related to the coordination and enforcement of this policy.

Offices and committees with training and education responsibilities include:

- Students: University Health Services
- Employees: Office of Human Resources, Office of Compliance
- Title IX Responsible Employees: Title IX Coordinator
- Campus Security Authorities: Clery Program Director
- EO54: Office for Equity and Diversity

The EVOC CC and PAGSAM: advise campus offices on their training and educational programs related to this policy.

**B. Consequences for non-compliance with training requirements:**

Employees: All employees, regardless of classification, must complete the campus-supported training for employees related to this policy. If a faculty or staff member does not complete the training, supervisors will document the deficiency (e.g., during performance management evaluation). The faculty or staff member will not be eligible for general wage adjustments (GWA) or performance pay increases that require satisfactory performance if the deficiency remains. Supervisors are also accountable for ensuring employees whom they supervise complete the training. If an employee has not completed the training, their immediate supervisor will also not be eligible for GWAs or performance pay increases that require satisfactory performance, unless the supervisor can demonstrate that they have made repeated efforts to obtain the employee's compliance without success. Supervisors must allow employees adequate time to complete the training during normal work hours.

Students: Students who fail to complete the campus-supported training for students related to this policy will have a hold placed on their registration and will not be allowed to register for classes in subsequent semesters until the training requirement has been completed.

**XIII. Record Keeping and Data Collection**

The Title IX Coordinator will maintain records of reports of sexual harassment or sexual violence consistent with the institutional records-retention policy. In addition, the Title IX Coordinator will track compliance with mandatory Title IX training programs, and maintain a list of training and education offered on campus. University Health Services will collect and maintain data regarding mandatory student training. The Office of Human Resources and the Office of Compliance will collect and maintain data regarding mandatory employee training.

The University's Clery Program Director, or other appropriate office, will collect appropriate data and information and compile the Annual Security Report and Annual Fire Safety Report, consistent with the federal Clery Act. The Clery Program Director will also collect and maintain data regarding annual CSA training.

The Office of Student Conduct and Community Standards, or other appropriate office, will collect appropriate data and compile the state report required under § 36.11(22)(c), Wis. Stats.

**XIV. Assessment**

The University will conduct periodic studies that seek to gather data and information concerning sexual harassment and sexual violence on or near campus. Efforts will be made to conduct such studies with sufficient frequency to determine trends in incidence and prevalence on campus and evaluate the effectiveness of prevention and intervention programs. At a minimum, such studies will be conducted every three years. The University will also work to design methods for effectively evaluating the outcomes of campus training and educational programming. It is imperative that the University proactively integrate empirically informed assessment and evaluations into sexual harassment and sexual violence prevention and awareness programs to measure whether they are achieving the intended outcomes.

**XV. Related Policies and Guidance**

Discrimination, Harassment and Retaliation Policy  
Safe Learning and Work Environments—Reporting Requirements and Resources  
Consensual Relationships Policy

## **XVI. Link to Current Policy**

### **Appendix A - Definitions**

**Campus Professional Counselor.** Any employee or student who is a licensed medical or mental health professional, working under the supervision of such a professional, or providing administrative support services in a confidential setting, when acting in that role in the provision of clinical services to a patient or client who is a University student or employee. A Campus Professional Counselor will not report specific information concerning a disclosure of sexual harassment or sexual violence received by the Campus Professional Counselor in their professional capacity unless with the consent of the disclosing individual or unless required by the Campus Professional Counselor's license or by law. See Appendix B of this policy for a list of Confidential Resources.

**Campus Security Authority.** Campus Security Authority (CSA) is a *Clery Act*<sup>4</sup> specific term that encompasses four groups of individuals and organizations associated with an institution:

1. All personnel who work for a campus police department or campus security department of an institution.
2. Any individual(s) who have responsibility for campus security but who do not constitute a campus police or security department. This includes, but is not limited to, people who provide security services such as monitoring access to campus facilities, act as event security for events such as sports or large, registered parties, or escort students around campus after dark.
3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report crimes. At UW- Madison, the following offices are designated to receive crime reports on behalf of the institution: University of Wisconsin Police Department, the Dean of Students Office, the Title IX Coordinator in the Office of Compliance, the Office of Workforce Relations.
4. An official of the institution with significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. [See 34 C.F.R. 668.46(a)]

**Clear and Convincing Evidence.** 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." See, e.g., Sections UWS 17.02(2), UWS 11.015(1), UWS 4.015(1), and UWS 7.015(1), Wis. Admin. Code.]

**Complainant.** Any individual who is reported to have been subjected to sexual harassment or sexual violence as defined in this policy.

**Confidential Resources.** As used in this policy, Confidential Resources collectively refers to Campus Professional Counselors, Non-Campus Professional Counselors, Ombuds, and Victim Advocates. See Appendix B of this policy for a list of Confidential Resources.

**Consent.** 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. A person is unable to give consent if the person is incapacitated because of drugs, alcohol, physical or intellectual disability, or unconsciousness. [See: § 940.225(4), Wis. Stats.]

**Employee.** Any individual who holds a faculty, academic staff, University staff, limited, student

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<sup>4</sup> Formally known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

employment, employee-in-training, temporary, or project appointment. (*See, e.g.*, UPS Operational Policy, GEN 0, General Terms and Definitions)

**Executive Order 54.** An Executive Order issued by Governor Walker in 2011 requiring that University employees, except otherwise Mandated Reporters pursuant to Wis. Stats. s. 48.981, report incidents of child abuse and neglect, which they observe or learn of in the course of their employment. Such reports must be personally and immediately made to law enforcement or the county department of social services or human services.

**Hostile Environment.** A hostile environment is created when one engages in sexual harassment and that conduct has the purpose or effect of 1) creating an intimidating, hostile, or offensive working, academic, or program-related environment, **or** 2) substantially interfering with an individual's work or academic performance, or their participation in a University program or activity **and** 3) that a reasonable person under the same circumstances as the individual would consider the conduct sufficiently severe or pervasive to do the same. [*See, e.g.*, § 111.36(1)(b), Wis. Stats.]

**Incapacitation.** As it applies to this policy, the state of being unable to physically and/or mentally make informed rational judgments and effectively communicate. It 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 and/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 if viewed from the perspective of a sober, reasonable person.

**Intimate Parts.** The breast, buttock, anus, groin, scrotum, penis, vagina or pubic mound of a human being. [§ 939.22(19), Wis. Stats.]

**Non-Campus Professional Counselor.** Individuals or agencies in the community whose professional license or certification permits that individual or agency to preserve the confidentiality of the patient or client. See Appendix B of this policy for a list of Confidential Resources.

**Office for Civil Rights.** The U.S. Department of Education office that is responsible for enforcing Title IX of the Education Amendments of 1972, and other education-based discrimination acts. Commonly referred to as OCR.

**Ombuds.** Any employee who works for the UW-Madison Ombuds Office while that employee is providing confidential services to a client who is a University employee. An Ombuds will not report personally identifiable information concerning a disclosure of sexual harassment or sexual violence received by that individual in their professional capacity unless with the consent of the disclosing individual or unless required by law. Information disclosed to an Ombuds is not entitled to the same legal protections as information conveyed to a licensed Campus or Non-Campus Professional Counselor and might be more easily discoverable in a legal proceeding. Disclosing information to an Ombuds will not lead to a Title IX investigation, unless the Complainant so requests. See Appendix B of this policy for a list of Confidential Resources.

**Preponderance of the Evidence.** 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 pursuant to this policy. [*See, e.g.*, Sections UWS 17.02(13), UWS 11.015(7), UWS 4.015(7), and UWS 7.015(5), Wis. Admin. Code.]

**Respondent.** A person who is accused of violating this policy.



**Prohibited Conduct:**

- A. **Sex Discrimination.** Conduct that adversely affects any aspect of an individual's employment, education, or participation in an institution's activities or programs, or has the effect of denying equal privileges or treatment to an individual on the basis of that individual's sex or gender. Sexual harassment and sexual violence are forms of sex discrimination. [*See* 20 USC §§ 1681-1688]
- B. **Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience or their participation in a University program or activity, (2) submission to or rejection of such conduct by an individual is used as the basis for employment, academic, or program-related decisions affecting such an individual, or (3) creates a hostile environment. [Adapted from 29 C.F.R. § 1604.11 (1980)].]
- C. **Sexual Assault:** Sexual contact or sexual intercourse with another person without the consent of that person [§ 940.225, Wis. Stats.].
  - 1. **First Degree Sexual Assault.** Engaging in any of the following constitutes First Degree Sexual Assault:
    - a. Sexual contact or sexual intercourse with another person without consent of that person and that causes pregnancy or great bodily harm to that person.
    - b. Sexual contact or sexual intercourse with another person without consent of that person by use or threat 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.
    - c. Sexual contact or sexual intercourse with another person without the consent of that person by use or threat of force or violence, aided or abetted by one or more persons.
  - 2. **Second Degree Sexual Assault.** Engaging in any of the following constitutes Second Degree Sexual Assault:
    - a. Sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
    - b. Sexual contact or sexual intercourse with another person without consent of that person causing injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
    - c. 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 respondent knows of such condition.
    - d. 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 respondent has actual knowledge that the person is incapable of giving consent and the respondent has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
    - e. Sexual contact or sexual intercourse with a person who the respondent knows is unconscious.
    - f. Sexual contact or sexual intercourse with another person without the consent of that person, aided or abetted by one or more other persons.
  - 3. **Third Degree Sexual Assault.** Sexual intercourse with a person without the consent of that person.
  - 4. **Fourth Degree Sexual Assault.** Sexual contact with a person without the consent of that person.
- D. **Dating Violence.** Violence committed in a "dating relationship," which is defined as a romantic or intimate social relationship between two adult individuals; "dating relationship" does not include a casual relationship or an ordinary fraternization between two individuals

in a business or social context. The University 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. [§ 813.12(1)(ag), Wis. Stats.]<sup>5</sup>

- E. **Domestic Violence.** 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 [§§ 813.12 (1)(am) and 968.075, Wis. Stats.]
1. Intentional infliction of physical pain, physical injury, or illness.
  2. Intentional impairment of physical condition.
  3. A violation of the state statute regarding sexual assault. [§ 940.225(1), (2) or (3), Wis. Stats.]
  4. A violation of the state statute regarding stalking. [§ 940.32, Wis. Stats.]
  5. A violation of the state statute regarding damage to property, involving property that belongs to the individual. [§ 943.01, Wis. Stats.]
  6. A threat to engage in any of the conduct under 1 through 5 listed above. [§§ 813.12 (1)(am) and 968.075, Wis. Stats.]
- F. **Stalking.** Intentionally engaging in a course of conduct that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household [§. 940.32, Wis. Stats.].
- G. **Retaliation.** An adverse action taken against an individual in response to, motivated by, or in connection with the individual's complaint of sex discrimination or sexual harassment, participation in an investigation of such complaint, and/or opposition of sex discrimination or sexual harassment in the University's workplace or educational programs and activities. An adverse action is an action that a reasonable person would find materially adverse such that it would dissuade the person from making or supporting a charge of discrimination. Examples include, but are not limited to: violating a no-contact directive; awarding a lower grade for reasons other than merit; or imposing unwarranted workplace discipline.
- H. **Providing false information to a reporting or investigatory office.** Any person who makes intentionally false statements or provides intentionally false information when reporting a violation of this policy or during the course of any disciplinary proceeding pursuant to this policy is subject to disciplinary action. The fact that a complaint of sexual harassment or sexual violence did not result in a finding of wrongdoing in a law enforcement or University disciplinary proceeding will not, by itself, be a basis for determining that this provision has been violated.
- I. **Refusal to comply with a reasonable request on a University matter.** Examples include failure to comply with a letter of expectation, No Contact Order, or exclusion.

**Responsible Employee.** *See Title IX Responsible Employee*

**Sexual Contact.**

- A. Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the respondent or if the touching contains the elements of actual or attempted battery [940.19(1), Wis. Stats.]:
1. Intentional touching by the respondent or, upon the respondent's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.

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<sup>5</sup> Note that violence committed against an adult with whom the individual has or had a dating relationship may constitute Domestic Violence if it meets the definition below, regardless of whether the individuals have cohabitated.

2. Intentional touching by the complainant, by the use of any body part or object, of the respondent's intimate parts or, if done upon the respondent's instructions, the intimate parts of another person.
- B. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the respondent or, upon the respondent's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the respondent.
- C. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the respondent, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the respondent's body, whether clothed or unclothed. [§ 940.225(5)(b), Wis. Stats.]

**Sexual Intercourse.** Penetration, as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the respondent or upon the respondent's instruction [§ 940.225(5)(c), Wis. Stats.].

**Sexual Violence.** The phrase, as used in this policy, refers to incidents involving sexual assault, dating violence, domestic violence or stalking.

**Student.** Any person who is registered for study in a University of Wisconsin System institution for the academic period in which the alleged act of sexual harassment or sexual violence occurred, or between academic periods for continuing students. [See Chapter UWS 17.02(14), Wis. Admin. Code.]

**Title IX.** Title IX of the Education Amendments of 1972 (20 U.S.C. sec. 1681 et seq. (as amended) and its implementing regulation, 34 C.F.R. Part 106. A federal law that states, "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a).

**Title IX Coordinator (and Deputies).** An employee designated to coordinate compliance with Title IX, who plays an important role in an institution's efforts to ensure equitable opportunity for all students and employees, and who works with school officials to remind the school community that students and employees must have equal access to all programs. (Adapted and revised from an April 24, 2015, "Dear Colleague Letter" issued by OCR).

**Title IX Responsible Employee.** Any employee who has been assigned certain reporting responsibilities pursuant to Title IX. The University has designated individuals in the following job categories as "responsible employees" under this policy:

- A. Chancellor, Provost, Vice Chancellors, Vice Provosts, Deans and all other Limited Appointees, including Directors;<sup>6</sup>
- B. Department Chairs;
- C. Human Resources Representatives;
- D. Academic Department Administrators (Employees who lead a variety of administrative duties (fiscal, purchasing, human resources, etc.) in an academic department or research center. This role typically includes advising students and/or supervising student employees.)
- E. Head and Assistant Coaches of intercollegiate athletic teams;
- F. Intercollegiate Athletic Department Directors (including executive, associate and assistant directors);
- G. Police Department Staff;

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<sup>6</sup> Except for the Vice Chancellor for Legal Affairs and the Associate Vice Chancellor for Legal Affairs, if the reported information is precluded from disclosure by the Attorney-Client Privilege or applicable ethical rules.

- H. University Housing Managers and Supervisors;
- I. University Housing Student Supervisors;
- J. University Housing House Fellows;
- K. University Housing Resident Managers;
- L. Student Services Staff (Employees whose duties require them to have regular or daily contact with students. This includes employees who are responsible for directly providing services to undergraduate and graduate students and to student organizations unless designated as a confidential resource.);
- M. Title IX Coordinator and Deputy Title IX Coordinators;
- N. University Complaint Investigators;
- O. Hearing Officers, Hearing Panel Members and Disciplinary Decision Makers;
- P. Officers responsible for hearing appeals in cases involving allegations of sexual harassment and sexual violence.

**Trauma-Informed Care.** Trauma-informed care reflects an understanding of trauma and emphasizes creating services and programs that are sensitive and directly responsive to the trauma that many victims and survivors experience following a violent crime. Trauma-informed care programs identify and limit potential triggers to reduce their re-traumatization and protect their mental and emotional health. Trauma-informed care is an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma-informed care also emphasizes physical, psychological and emotional safety for both consumers and providers, and helps survivors rebuild a sense of control and empowerment. [See also: [SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach](#); and [Building Cultures of Care: A Guide for Sexual Assault Services Programs](#)]

**University event.** Any gathering, program, or activity:

- A. that takes place on University lands; or
- B. that takes place as part of a University-sponsored activity not located on University lands; or
- C. that the University, or a part of the University, is paying for, including with student segregated fees.

**Victim Advocate.** Any employee or volunteer who works in UHS Survivor Services and any employee or volunteer for a community victim advocacy program (e.g., Dane County Rape Crisis Center or Domestic Abuse Intervention Services) while that employee or volunteer is providing confidential victim advocacy services to a client who is a University student or employee. A Victim Advocate will not report personally identifiable information concerning a disclosure of sexual harassment or sexual violence received by that individual in their professional capacity unless with the consent of the disclosing individual or unless required by law. Information disclosed to a Victim Advocate is not entitled to the same legal protections as information conveyed to a licensed Campus or Non-Campus Professional Counselor and might be more easily discoverable in a legal proceeding. Disclosing information to a Victim Advocate will not lead to a Title IX investigation, unless the Complainant so requests. See Appendix B of this policy for a list of Confidential Resources.

**Violence Against Women Act (VAWA).** Federal law enacted in 1994, which promotes the investigation and prosecution of violent crimes against women, among other objectives. Recently, it amended the Clery Act [42 U.S.C. §§ 13701-14040], through the Campus Sexual Violence Elimination Act (SaVE) provision, Section 304.

## Appendix B – Confidential Resources<sup>7</sup>

### On campus for students

- UHS Medical/Mental Health Care 608-265-5600  
333 East Campus Mall  
[hs.wisc.edu](http://hs.wisc.edu)  
24-Hour Line 608-265-5600  
Mental Health Crisis Line (option 9) Medical Advice Nurse Line (option 1)
- UHS Violence Prevention & Survivor Services EVOC: End Violence on Campus  
333 East Campus Mall, 8th Floor [evoc@uhs.wisc.edu](mailto:evoc@uhs.wisc.edu)  
608-265-5600 (option 3)
- McBurney Disability Resource Center  
702 W. Johnson Street, Suite 2104  
[mcburney@studentlife.wisc.edu](mailto:mcburney@studentlife.wisc.edu)  
608-263-2741 (voice)  
608-225-7956 (text)  
<https://mcburney.wisc.edu/>

### On campus for employees

- Employee Assistance Office  
610 Langdon Street, Lowell Center, Room 226  
[eao@mailplus.wisc.edu](mailto:eao@mailplus.wisc.edu)  
(608) 263-2987  
[eao.wisc.edu](http://eao.wisc.edu)
- Ombuds Office  
610 Langdon Street, Lowell Center, Room 223-225  
[uwombuds@mailplus.wisc.edu](mailto:uwombuds@mailplus.wisc.edu)  
(608) 265-9992  
[ombuds.wisc.edu](http://ombuds.wisc.edu)

### Community resources available to anyone

- Forensic Nurse Examiner Program  
Meriter Hospital, 202 South Park Street Emergency room entrance  
608-417-5916  
<https://www.unitypoint.org/madison/sexual-assault-nurse-examiner-program.aspx>
- Domestic Abuse Intervention Services (DAIS)  
2102 Fordem Avenue

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<sup>7</sup> Anyone who has been subjected to sexual harassment or sexual violence can access available confidential resources for assistance and support including medical care, mental health counseling, victim advocacy, and access to accommodations and protective measures. These resources are available regardless of whether the person chooses to report the violation to the University, law enforcement, or any other agency

24-hour line: (608) 251-4445 or toll-free (800)747-4045

- Rape Crisis Center (RCC)  
2801 Coho Street #301  
333 E. Campus Mall #7901| M-F, hours vary. Appointments can be made using 24 hour line.  
24-hour line: 608-251-RAPE (7273)  
[info@danecountyrc.org](mailto:info@danecountyrc.org)
- Deaf Unity  
Text helpline: 608-466-2881 M-F  
9am-10pm [help@deafunitywi.org](mailto:help@deafunitywi.org)  
[Deaf Unity](#)
- UNIDOS Against Domestic Violence  
1-800-510-9195  
[UNIDOS](#)
- Freedom, Inc.  
601 Bay View  
608-661-4089 M-F 9am-5pm  
[refugeeproject@hotmail.com](mailto:refugeeproject@hotmail.com) [Freedom, Inc.](#)

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**Change to *Faculty Legislation II-303*, and Renaming to Protected and Unprotected Expression in a Work-Related Setting**

**The UW-Madison Faculty Senate endorses the UW-Madison Policy on Sexual Harassment and Sexual Violence (SH-SV).** On a directive from the UW Board of Regents, the UW-Madison Provost's Advisory Group on Sexual Assault and Misconduct (PAGSAM) constructed this policy (attached).

SH-SV is based on the following laws, regulations and guidance:

- UW Regent Policy Document 14-2
- Title IX of the Education Amendments (1972)
- The Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (1991)
- Violence Against Women Act (1994)
- The Violence Against Women Reauthorization Act of 2013
- UWS Chapter 17
- Wisconsin Statute § 36.11(22)(c)
- Governor's Executive Order #54

SH-SV includes:

- Definitions of conduct prohibited by the policy (sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking and related retaliation)
- Options for reporting violations
- List of those designated as Title IX Responsible Employees
- Various campus and community resources including confidential resources
- Investigatory and disciplinary processes for various members of the UW-Madison community

The adoption of SH-SV necessitates the modification of *Faculty Legislation II-303* "PROHIBITED HARASSMENT: DEFINITIONS AND RULES GOVERNING THE CONDUCT OF UW-MADISON FACULTY AND ACADEMIC STAFF." The proposed modified legislation is presented below.

**II-303 PROHIBITED HARASSMENT: DEFINITIONS AND RULES GOVERNING THE CONDUCT OF UW-MADISON FACULTY AND ACADEMIC STAFF PROTECTED AND UNPROTECTED EXPRESSION IN A WORK-RELATED SETTING**

**PART I: Sexual Favors as a Basis for Actions Affecting an Individual's Welfare as a Student or Employee**

~~A member of the university faculty or academic staff is subject to discipline if he or she behaves, while engaged in official university business, toward another university employee, student, or recipient of university services in any of the following ways:~~

- ~~1. Uses, offers to use, or threatens to use one's status as a member of the university faculty or academic staff to bring about decisions or assessments affecting an individual's welfare on the basis of submission to, or rejection of, requests for sexual favors.~~
- ~~2. Accepts an offer of sexual favors in exchange for an agreement to use one's status as a member of the university faculty or academic staff to bring about favorable decisions or assessments affecting an individual.~~

~~PART II: Flagrant or Repeated Sexual Advances, Requests for Sexual Favors, and Physical Contacts Harmful to Another's Work or Study Performance or to the Work, Study, or Service Environment~~  
A member of the university faculty or academic staff is subject to discipline if, in a work or learning-related setting, he or she makes sexual advances, requests sexual favors, or makes physical contacts commonly understood to be of a sexual nature, and if

- ~~1. the conduct is unwanted by the person(s) to whom it is directed, and~~
- ~~2. the actor knew or a reasonable person could clearly have understood that the conduct was unwanted, and~~
- ~~3. because of its flagrant or repetitious nature, the conduct either~~
  - ~~a. seriously interferes with work or learning performance of the person(s) to whom the conduct was directed, or~~
  - ~~b. makes the university work, learning, or service environment intimidating or hostile, or demeaning to a person of average sensibilities.~~

### ~~PART III I: Expression in Instructional Settings~~

The University of Wisconsin-Madison endeavors to maintain an environment that challenges students, faculty, and staff to develop their critical thinking capacities to their fullest potential—an environment in which controversial, provocative, and unpopular ideas can safely be introduced and discussed. The university is, therefore, unswervingly committed to freedom of speech as guaranteed under the First Amendment to the Constitution of the United States and to the principle of academic freedom adopted by the Board of Regents in 1894, which states in part: “whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone truth can be found.”

Beneficial to students, academic staff and professors alike, academic freedom has special application to the classroom and has been described by U.S. Supreme Court Justice William Brennan as “...of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom....The classroom is peculiarly the marketplace of ideas.”

Adherence to the right of freedom of speech and to the principle of academic freedom requires that all thoughts presented as ideas or the advocacy of ideas in instructional settings, if they are germane to the subject matter of the course being taught, must be protected. This applies to the ideas of faculty and students alike. The maintenance of intellectual freedom through the open expression of ideas will sometimes be unavoidably hurtful. Some hurtful expressions, however, play no meaningful role in the free exchange of ideas; they may, indeed, inhibit that exchange, thereby denying some individuals full participation in the learning experience. These expressions are those that clearly derogate and debase a student or students in the class on the basis of gender, gender identity and expression, race, religion, ethnicity, sexual orientation, or disability.

Within the framework of academic freedom, the faculty and academic staff have a responsibility to foster an environment of tolerance, civility, awareness, and respect. The university community can thrive and serve its members equally only when the community recognizes the inherent worth and dignity of every human being and affirms the principle of mutual respect as an integral aspect of the pursuit of knowledge. The integrity of the University of Wisconsin-Madison rests upon its ability to guarantee freedom from intimidation or injury generated by intolerance or harassment. The freedom of all members of the university to express openly their ideas and opinions, however, must be maintained.

Accordingly, all expression germane to the instructional setting—including but not limited to information, the presentation or advocacy of ideas, assignment of course materials, and teaching techniques—is protected from disciplinary action.



A student who finds that an instructor uses expressions that are hurtful to him or her is strongly urged to discuss these concerns with the instructor. If for some reason this is not possible, or does not produce results the student finds satisfactory, he or she is urged to contact his or her advisor, the instructor's department chair, or the Dean of Students, for mediation between the student and the academic staff or faculty member. If the student still believes the expressions were not germane to the instructional setting, he or she is referred to *Faculty Policies and Procedures* Chapter 9 or *Academic Staff Policies and Procedures* Chapter 6.

**PART ~~IV~~ II:** Protected and Unprotected Expression in Non-Instructional but Work-Related Settings  
Faculty and academic staff are subject to discipline for using derogating and debasing expression in a non-instructional but work-related setting according to the following definitions and rules.

1. Definitions

- a. "Expression" is communication in any format-including but not limited to oral, visual, literary, recorded, or symbolic. Expression includes the presentation of factual information and opinion, and the advocacy of ideas.
- b. A "non-instructional but work-related setting" is any situation except those described in Definition 3 below in which a member of the faculty or academic staff, while engaged in a university-related task, communicates with students, university employees or recipients of university services. Non-instructional but work-related settings include, but are not limited to, such situations as discussion about what graduate school a student might attend or what career options a student might pursue, or comments to a staff member in the Department office.
- c. An "instructional setting" is any situation in which the instructor of a course communicates about course content with one or more students enrolled in the course, or in which an instructor who has partial responsibility for communicating course content but is not the individual delegated with particular authority to record student grades communicates with the student(s) about the course content (e.g., as a member of a thesis committee; as a lecturer in a team-taught course), or in which an instructor, acting as an advisor, discusses courses taught by other instructors. Instructional settings include, but are not limited to, lecture halls, seminar rooms, laboratories, field trips, and instructors' offices. Instructional settings do not include public lectures where attendance by students is not required, published scholarship, commentary advanced in or reported via any public medium, and the like.

2. Protected and Unprotected Expression

- a. Expression is protected if it involves the presentation or discussion of any material that is appropriate to non-instructional but work-related activities.  
The use, in addressing a specific student, university employee, or recipient of university services, of an epithet or a comment concerning that student, employee or recipient of services that clearly derogates and debases him or her on the basis of his or her gender, gender identity and expression, race, religion, ethnicity, sexual orientation, or disability is not appropriate and therefore is not protected.
- b. Expression can be the basis for discipline only if all of the following conditions apply:
  - i. The expression is clearly and patently not protected under ~~IV.B.1~~ II.2.a; and
  - ii. one or more student(s), university employee(s), or recipient(s) of university services have asked on one or more previous occasions that the faculty or academic staff member stop using such expression; and
  - iii. the expression is, and is commonly considered by the university community-including individuals who belong to a group targeted by the faculty or academic staff member-to be, seriously derogating and debasing; and
  - iv. the expression is likely seriously to interfere with an individual's academic or professional performance, or receipt of university services.

PART ~~V~~ III: Procedures for the Implementation of Part ~~IV~~ II

The procedures below distinguish between (a) situations in which someone believes that a member of the faculty or academic staff has engaged in prohibited expression, but there could be no violation of Part ~~IV.B.1~~ II.2.a, because there had been no prior request not to engage in that expression, and (b) situations in which the claim is that Part ~~IV~~ II has been violated, because such a request had been made and the expression was subsequently repeated.

In the first situation, the procedures deal with communication between the person who engaged in the expression and the person who objects to it. This may lead to agreement on whether the expression is or is not protected. If no such agreement emerges, the procedures provide mechanisms for obtaining clarification on whether the expression is protected.

The second situation is one in which it is claimed that unprotected expression has been repeated and constitutes a violation of these rules. Experience demonstrates that most such claims can and should be dealt with through informal processes whose goal is to enhance the understanding of those concerned and to fashion a resolution that each of them will perceive as fair and reasonable. The procedures for seeking such a resolution are set forth below. In addition, the university's formal disciplinary processes are explained, as is the grievance process available to a faculty member who believes that his or her rights have been violated by proceedings under these rules. Whether a matter is being pursued informally or through formal disciplinary proceedings, expression cannot be deemed a violation of these rules unless all of the requirements of Part ~~IV.B.1~~ II.2.a are satisfied.

1. Procedure prior to a repetition of expression believed to be unprotected
  - a. A person who objects to expression and believes that, if repeated, it could be the basis for disciplinary action, should, either directly or through an intermediary of his/her choice, explain to the faculty or staff member in question why the expression is considered objectionable and request that the expression not be repeated. If the faculty or staff member considers the expression to be protected, he/she is encouraged to discuss the matter with the person who has complained. If such a discussion fails to produce agreement on whether the expression is protected, the faculty or staff member whose expression is in question, if he or she wishes, may ask, as appropriate, the secretary of the faculty to convene a panel of at least three former chairs of the Committee on Faculty Rights and Responsibilities and/or the University Committee, or the secretary of the academic staff to convene a panel of at least three former chairs of the Academic Staff Appeals Committee and/or the Academic Staff Executive Committee to provide advice on this question, or may ask his/her department to ask for such advice.
    - i. If requested by a student, the Dean of Students office shall facilitate communication between the student and the faculty or staff member, either by helping and advising a student who wishes to speak directly with the faculty or staff member or by acting as an intermediary between them.
    - ii. Oral and written communications occurring during this process between or among the person objecting to the expression of the faculty or staff member, that faculty or staff member, and an intermediary may not be used as evidence in any university disciplinary proceeding. This provision does not apply to a request that expression not be repeated.
2. Procedure following repetition of expression believed to be a violation of these rules
  - a. The Informal, Non-Disciplinary Process. A person who believes that these rules have been violated is encouraged, though not obliged, to discuss the matter with the faculty or staff member involved, either directly or through the intervention of an appropriate intermediary at the departmental, school/college, or campus level. Similarly, faculty or staff members are encouraged, though not obliged, to participate in efforts to resolve complaints in this informal manner.

Oral and written communications occurring during the informal process may not be used as evidence in any university disciplinary proceeding.

- i. When an individual believes that these rules have been violated and seeks to deal with the problem informally, he/she should be prepared to identify precisely the conduct believed to constitute the violation. Precision is often aided by expressing the complaint in writing. If the matter is not promptly resolved, and if the person complained against so requests, the complainant shall provide such a written statement.
  - ii. A complainant who believes that informal approaches are inappropriate, or that an informal process that has been invoked is not functioning satisfactorily, is entitled to invoke the formal disciplinary process.
  - iii. A faculty or staff member is entitled to refuse to participate, or cease participating, in informal processes and insist that the matter be dropped or handled through the disciplinary process.
  - iv. If a complaint about harassment is being handled informally, and there is a dispute about whether the alleged conduct constitutes a violation of these rules, the person or body handling the matter shall seek advice on this question from the Administrative Legal Services Office and inform those concerned of the advice received.
- b. The Disciplinary Process
  - i. Discipline can be imposed on faculty members for violation of these rules only in compliance with the requirements of the formal processes delineated in Chapter 9 of *FPP (Faculty Policies and Procedures)*. This process is instituted by the filing of a written complaint with the provost. If the faculty conduct in question does not constitute a violation of these rules, the complaint is dismissed. If the conduct would be a violation, an investigation is conducted, including a discussion with the faculty member, if he/she wishes. Depending on the outcome of the investigation, the provost will either dismiss the case, refer it to the faculty member's department, or proceed with disciplinary action. If discipline is proposed, the faculty member is entitled to have the matter fully heard and considered by CFRR (Committee on Faculty Rights and Responsibilities), a committee of nine faculty members elected by the faculty at large. CFRR makes specific findings of fact and forwards them to the chancellor together with its recommendation as to the disciplinary action it considers appropriate. A determination by CFRR that there is adequate cause for discipline requires a majority vote with no more than two dissenting votes. *FPP* Chapter 9 should be consulted for further information concerning the details of the formal disciplinary process.
  - ii. Discipline can be imposed on academic staff members for violation of these rules only in compliance with the requirements of the formal processes of Chapters 6, 8 and 9 of *ASPP (Academic Staff Policies and Procedures)*.
3. Grievances by Faculty Members. A faculty member who believes that he/she has been treated unfairly or that his/her rights have been violated by efforts to deal with a complaint of harassment is entitled to pursue a grievance under *FPP* 8.15. Such a grievance, if not otherwise resolved to the faculty member's satisfaction, can be brought to the University Committee, which has full power to consider it and take whatever actions it deems appropriate.
4. Grievances by Academic Staff Members. An academic staff member who believes that he/she has been treated unfairly or that his/her rights have been violated by efforts to deal with a complaint of harassment is entitled to pursue a grievance under *ASPP* Chapter 7.

No mark-up

PART I: Expression in Instructional Settings

The University of Wisconsin-Madison endeavors to maintain an environment that challenges students, faculty, and staff to develop their critical thinking capacities to their fullest potential—an environment in which controversial, provocative, and unpopular ideas can safely be introduced and discussed. The university is, therefore, unswervingly committed to freedom of speech as guaranteed under the First Amendment to the Constitution of the United States and to the principle of academic freedom adopted by the Board of Regents in 1894, which states in part: “whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone truth can be found.”

Beneficial to students, academic staff and professors alike, academic freedom has special application to the classroom and has been described by U.S. Supreme Court Justice William Brennan as “...of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom....The classroom is peculiarly the marketplace of ideas.”

Adherence to the right of freedom of speech and to the principle of academic freedom requires that all thoughts presented as ideas or the advocacy of ideas in instructional settings, if they are germane to the subject matter of the course being taught, must be protected. This applies to the ideas of faculty and students alike. The maintenance of intellectual freedom through the open expression of ideas will sometimes be unavoidably hurtful. Some hurtful expressions, however, play no meaningful role in the free exchange of ideas; they may, indeed, inhibit that exchange, thereby denying some individuals full participation in the learning experience. These expressions are those that clearly derogate and debase a student or students in the class on the basis of gender, gender identity and expression, race, religion, ethnicity, sexual orientation, or disability.

Within the framework of academic freedom, the faculty and academic staff have a responsibility to foster an environment of tolerance, civility, awareness, and respect. The university community can thrive and serve its members equally only when the community recognizes the inherent worth and dignity of every human being and affirms the principle of mutual respect as an integral aspect of the pursuit of knowledge. The integrity of the University of Wisconsin-Madison rests upon its ability to guarantee freedom from intimidation or injury generated by intolerance or harassment. The freedom of all members of the university to express openly their ideas and opinions, however, must be maintained.

Accordingly, all expression germane to the instructional setting—including but not limited to information, the presentation or advocacy of ideas, assignment of course materials, and teaching techniques—is protected from disciplinary action.

A student who finds that an instructor uses expressions that are hurtful to him or her is strongly urged to discuss these concerns with the instructor. If for some reason this is not possible, or does not produce results the student finds satisfactory, he or she is urged to contact his or her advisor, the instructor’s department chair, or the Dean of Students, for mediation between the student and the academic staff or faculty member. If the student still believes the expressions were not germane to the instructional setting, he or she is referred to *Faculty Policies and Procedures* Chapter 9 or *Academic Staff Policies and Procedures* Chapter 6.

## PART II: Protected and Unprotected Expression in Non-Instructional but Work-Related Settings

Faculty and academic staff are subject to discipline for using derogating and debasing expression in a non-instructional but work-related setting according to the following definitions and rules.

### 1. Definitions

- a. “Expression” is communication in any format-including but not limited to oral, visual, literary, recorded, or symbolic. Expression includes the presentation of factual information and opinion, and the advocacy of ideas.
- b. A “non-instructional but work-related setting” is any situation except those described in Definition 3 below in which a member of the faculty or academic staff, while engaged in a university-related task, communicates with students, university employees or recipients of university services. Non-instructional but work-related settings include, but are not limited to, such situations as discussion about what graduate school a student might attend or what career options a student might pursue, or comments to a staff member in the Department office.
- c. An “instructional setting” is any situation in which the instructor of a course communicates about course content with one or more students enrolled in the course, or in which an instructor who has partial responsibility for communicating course content but is not the individual delegated with particular authority to record student grades communicates with the student(s) about the course content (e.g., as a member of a thesis committee; as a lecturer in a team-taught course), or in which an instructor, acting as an advisor, discusses courses taught by other instructors. Instructional settings include, but are not limited to, lecture halls, seminar rooms, laboratories, field trips, and instructors’ offices. Instructional settings do not include public lectures where attendance by students is not required, published scholarship, commentary advanced in or reported via any public medium, and the like.

### 2. Protected and Unprotected Expression

- a. Expression is protected if it involves the presentation or discussion of any material that is appropriate to non-instructional but work-related activities.  
The use, in addressing a specific student, university employee, or recipient of university services, of an epithet or a comment concerning that student, employee or recipient of services that clearly derogates and debases him or her on the basis of his or her gender, gender identity and expression, race, religion, ethnicity, sexual orientation, or disability is not appropriate and therefore is not protected.
- b. Expression can be the basis for discipline only if all of the following conditions apply:
  - i. The expression is clearly and patently not protected under II.2.a; and
  - ii. one or more student(s), university employee(s), or recipient(s) of university services have asked on one or more previous occasions that the faculty or academic staff member stop using such expression; and
  - iii. the expression is, and is commonly considered by the university community-including individuals who belong to a group targeted by the faculty or academic staff member-to be, seriously derogating and debasing; and
  - iv. the expression is likely seriously to interfere with an individual’s academic or professional performance, or receipt of university services.

### PART III: Procedures for the Implementation of Part II

The procedures below distinguish between (a) situations in which someone believes that a member of the faculty or academic staff has engaged in prohibited expression, but there could be no violation of Part II, because there had been no prior request not to engage in that expression, and (b) situations in which the claim is that Part II has been violated, because such a request had been made and the expression was subsequently repeated.

In the first situation, the procedures deal with communication between the person who engaged in the expression and the person who objects to it. This may lead to agreement on whether the expression is or is not protected. If no such agreement emerges, the procedures provide mechanisms for obtaining clarification on whether the expression is protected.

The second situation is one in which it is claimed that unprotected expression has been repeated and constitutes a violation of these rules. Experience demonstrates that most such claims can and should be dealt with through informal processes whose goal is to enhance the understanding of those concerned and to fashion a resolution that each of them will perceive as fair and reasonable. The procedures for seeking such a resolution are set forth below. In addition, the university's formal disciplinary processes are explained, as is the grievance process available to a faculty member who believes that his or her rights have been violated by proceedings under these rules. Whether a matter is being pursued informally or through formal disciplinary proceedings, expression cannot be deemed a violation of these rules unless all of the requirements of Part II.2.a are satisfied.

1. Procedure prior to a repetition of expression believed to be unprotected
  - a. A person who objects to expression and believes that, if repeated, it could be the basis for disciplinary action, should, either directly or through an intermediary of his/her choice, explain to the faculty or staff member in question why the expression is considered objectionable and request that the expression not be repeated. If the faculty or staff member considers the expression to be protected, he/she is encouraged to discuss the matter with the person who has complained. If such a discussion fails to produce agreement on whether the expression is protected, the faculty or staff member whose expression is in question, if he or she wishes, may ask, as appropriate, the secretary of the faculty to convene a panel of at least three former chairs of the Committee on Faculty Rights and Responsibilities and/or the University Committee, or the secretary of the academic staff to convene a panel of at least three former chairs of the Academic Staff Appeals Committee and/or the Academic Staff Executive Committee to provide advice on this question, or may ask his/her department to ask for such advice.
    - i. If requested by a student, the Dean of Students office shall facilitate communication between the student and the faculty or staff member, either by helping and advising a student who wishes to speak directly with the faculty or staff member or by acting as an intermediary between them.
    - ii. Oral and written communications occurring during this process between or among the person objecting to the expression of the faculty or staff member, that faculty or staff member, and an intermediary may not be used as evidence in any university disciplinary proceeding. This provision does not apply to a request that expression not be repeated.
2. Procedure following repetition of expression believed to be a violation of these rules
  - a. The Informal, Non-Disciplinary Process. A person who believes that these rules have been violated is encouraged, though not obliged, to discuss the matter with the faculty or staff member involved, either directly or through the intervention of an appropriate intermediary at the departmental, school/college, or campus level. Similarly, faculty or staff members are encouraged, though not obliged, to participate in efforts to resolve complaints in this informal manner.

Oral and written communications occurring during the informal process may not be used as evidence in any university disciplinary proceeding.

- i. When an individual believes that these rules have been violated and seeks to deal with the problem informally, he/she should be prepared to identify precisely the conduct believed to constitute the violation. Precision is often aided by expressing the complaint in writing. If the matter is not promptly resolved, and if the person complained against so requests, the complainant shall provide such a written statement.
- ii. A complainant who believes that informal approaches are inappropriate, or that an informal process that has been invoked is not functioning satisfactorily, is entitled to invoke the formal disciplinary process.
- iii. A faculty or staff member is entitled to refuse to participate, or cease participating, in informal processes and insist that the matter be dropped or handled through the disciplinary process.
- iv. If a complaint about harassment is being handled informally, and there is a dispute about whether the alleged conduct constitutes a violation of these rules, the person or body handling the matter shall seek advice on this question from the Administrative Legal Services Office and inform those concerned of the advice received.

b. The Disciplinary Process

- i. Discipline can be imposed on faculty members for violation of these rules only in compliance with the requirements of the formal processes delineated in Chapter 9 of *FPP (Faculty Policies and Procedures)*. This process is instituted by the filing of a written complaint with the provost. If the faculty conduct in question does not constitute a violation of these rules, the complaint is dismissed. If the conduct would be a violation, an investigation is conducted, including a discussion with the faculty member, if he/she wishes. Depending on the outcome of the investigation, the provost will either dismiss the case, refer it to the faculty member's department, or proceed with disciplinary action. If discipline is proposed, the faculty member is entitled to have the matter fully heard and considered by CFRR (Committee on Faculty Rights and Responsibilities), a committee of nine faculty members elected by the faculty at large. CFRR makes specific findings of fact and forwards them to the chancellor together with its recommendation as to the disciplinary action it considers appropriate. A determination by CFRR that there is adequate cause for discipline requires a majority vote with no more than two dissenting votes. *FPP* Chapter 9 should be consulted for further information concerning the details of the formal disciplinary process.
  - ii. Discipline can be imposed on academic staff members for violation of these rules only in compliance with the requirements of the formal processes of Chapters 6, 8 and 9 of *ASPP (Academic Staff Policies and Procedures)*.
3. Grievances by Faculty Members. A faculty member who believes that he/she has been treated unfairly or that his/her rights have been violated by efforts to deal with a complaint of harassment is entitled to pursue a grievance under *FPP* 8.15. Such a grievance, if not otherwise resolved to the faculty member's satisfaction, can be brought to the University Committee, which has full power to consider it and take whatever actions it deems appropriate.
  4. Grievances by Academic Staff Members. An academic staff member who believes that he/she has been treated unfairly or that his/her rights have been violated by efforts to deal with a complaint of harassment is entitled to pursue a grievance under *ASPP* Chapter 7.