



BOARD OF REGENTS



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Regent Policy Documents

SECTION 14: DISCRIMINATION PROHIBITED

14-6 RACIST AND OTHER DISCRIMINATORY CONDUCT POLICY

(Formerly 88-12)

It is the policy of the Board of Regents of the University of Wisconsin System, that racist and other discriminatory conduct toward students, employees, officials, and guests in the University of Wisconsin System is conduct that will not be tolerated. Discrimination, discriminatory attitudes, and expressions that reflect discrimination are inconsistent with the efforts of the University of Wisconsin System to foster an environment of respect for the dignity and worth of all members of the university community and to eliminate all manifestations of discrimination within the university.

Racist and other discriminatory conduct encompasses harassing conduct based upon the race, sex, gender identity or expression, religion, color, creed, disability, sexual orientation, national origin, ancestry, or age of an individual or individuals. Harassment of this kind is a form of discrimination. Campus politics and cultures have changed favorably throughout the University of Wisconsin System over the course of years, but not enough to eliminate all forms of discrimination. Incidents of racial harassment and other types of discriminatory conduct continue to occur. All such episodes are harmful to the individuals directly involved, and diminish the university community as a whole. Incidents of racial harassment, for example, may lead minority students, employees, officials and guests to feel isolated or to choose to isolate themselves from the numerically predominant racial/ethnic group within the university. Divisions of this kind, which result from discriminatory harassment, are at variance with the Board's purpose of fostering racial understanding and cooperation, and undermine the goal articulated in the [University of Wisconsin System's Design for Diversity](#): "... to educate all students for an increasingly multicultural society in Wisconsin, our nation and our world."

Effective policies and procedures are necessary to prevent racist and other discriminatory conduct. Accordingly, all University of Wisconsin System Institutions are directed to develop implementing policies and procedures to protect students, faculty, academic staff and classified staff from harassment, and to ensure prompt corrective action whenever it may occur.

Each University of Wisconsin System Institution is directed to submit, not later than January 15, 1989, policies and procedures to protect students, employees, officials, and guests from racist other discriminatory conduct and to ensure prompt corrective action whenever it may occur. Institutional policies and procedures implementing the Board's policy should, at a minimum, contain the following:

1. A clear statement of the institution's commitment to the elimination of racist and other discriminatory conduct.

This statement may be presented in an existing policy statement concerning general principles of non-discrimination, or articulated in a separate institutional policy. For example, since all institutions currently have in place policies concerning sexual harassment, it may be appropriate to broaden the scope of these provisions to include other forms of discriminatory harassment as well. It would, however, also be appropriate to develop a series of separate statements, each with a narrower focus. Some institutions may choose, for example, not to amend their sexual harassment policies; to focus on racial harassment as a special subject of policy development in response to the "Design for Diversity's" emphasis on minority problems; and to deal with other forms of discriminatory conduct as discrete policies.

2. A definition of those forms of racist and other discriminatory conduct that will be grounds for disciplinary action.
 - a. Definitions consistent with the following statement may be appropriate:

"Racist and other discriminatory conduct" means intentional conduct, either verbal or physical, that explicitly demeans the race, sex, religion, color, creed, disability, sexual orientation, national origin, ancestry, or age of an individual or individuals, and (1) has the purpose or effect of interfering with the education, university-related work, or other university authorized activity of a university student, employee, official or guest; or (2) creates an intimidating, hostile or demeaning environment for education, university related work, or other university authorized activity.

- b. In addition, institutions may wish to provide specific examples of racist and other discriminatory conduct, to further enhance understanding of the problem. Such examples might include:
 - i. physical contact or attacks for racial reasons;
 - ii. intimidation through the threat of force or violence on a person's body, possessions or residence;
 - iii. verbal assaults based on ethnicity, such as name calling, racial slurs, or "jokes" that demean a victim's color, culture or history.
 - c. It is important to note that not every act which may be offensive to an individual or group will be considered to be racist and discriminatory conduct and a violation of system or institutional policy. Whether a specific incident constitutes harassment proscribed by university policy will be decided on a case-by-case basis in accordance with the procedures developed by each institution. Due consideration will be given to the protection of individual First Amendment rights to freedom of expression and academic freedom.
3. A process for informal resolution of complaints of racist and other discriminatory conduct, counseling, and a description of the formal disciplinary procedures, remedies and sanctions available for redress of valid complaints.

The procedures should allow for a person to complain initially to a variety of officials, provide for a thorough investigation, and outline the range of sanctions that may be imposed on offending students, student organizations, faculty, academic staff, and classified staff. The policy may include a statement indicating that retaliation for filing a complaint of racist or discriminatory conduct is prohibited. In developing these processes, it is appropriate to incorporate, by reference, existing grievance and disciplinary procedures applicable to students, student organizations, faculty, academic staff, and classified staff.

There may, however, be circumstances where more extensive changes are required to fully implement the board's policy. With respect to the student code of conduct, for example, it may become necessary to amend sections of Chapter UWS 17 of the Administrative Code to effect desired changes. System Administration staff will review all institutional policies and procedures for consistency with these guidelines and existing administrative rules. Those portions of institutional policies that are consistent with the guidelines and rules can be implemented immediately. Those requiring changes in the administrative code will be reviewed and brought to the board for appropriate action after all institutional policies have been submitted. **

4. A mechanism for designing educational programs to inform students, student organizations, faculty, academic staff, and classified staff of the nature of racist and other discriminatory conduct in order to increase their sensitivity to it, and for publicizing the procedures, sanctions and remedies available against racial harassment.

Process for Review Leading to Approval of Institutional Policies :

System Administration staff will be available to assist the institutions in their efforts to implement this policy, to answer specific legal or policy questions, and to provide information and materials on the subject of racist and other discriminatory conduct that may be useful in the drafting of definitions and procedures or in preparing education programs. All institutional policies and procedures for students, employees, officials and guests shall be presented to the Special Assistant to the President for Minority Affairs for review and approval not later than January 15, 1989. The institutional policies become effective upon approval by the Board of Regents.

**** Note:** *In 1989, the Board created s. UWS 17.06(2), prohibiting certain types of expressive behavior directed at individuals and intended to demean and to create a hostile environment for education or other university-authorized activities. The constitutionality of this rule was challenged in UWM Post Inc. et.al. v. Board of Regents. 774 F. Supp 1163 (ED. Wis. 1991). In a decision issued October 11, 1991, the court sustained this challenge, holding that UWS*

17.06(2) was, on its face, overbroad and vague, in violation of the First Amendment. The Board subsequently initiated a revision to the rule to correct the constitutional defects noted in the UWM Post case. At its May, 1992 meeting, the Board approved a revision to the rule, which became effective September 1, 1992. Following the Board's May 1992 action, however, the us. Supreme Court handed down its decision in R.AY v. St. Paul. 112 S. Ct. 2538 (1992). In addition, the Wisconsin Supreme Court issued its decision in State of Wisconsin v. Todd Mitchell. 113 S. Ct. 2194, 124 1. Ed. 2d 436 (1993). The First Amendment analysis in these two cases tends to cast doubt on the constitutional validity of UWS 17. 06(2). Accordingly, the Board repealed the rule effective May 1, 1993.

History: Res. 5063 adopted 10/7/88; amended by Res. 6193, 9/92 and Res. 6278, 12/92, amended by Res. 8963, 2/05. (See also Policy 14-9)

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The Regent Policy Documents were adopted and are maintained pursuant to the policy-making authority vested in the Board of Regents by Wis. Stats. § 36. The Regent Policy Documents manifest significant policies approved by the University of Wisconsin System Board of Regents. This document is a ready reference for those charged with carrying out these policies. Unless noted otherwise, associated documents and reports may be obtained from the Office of the Secretary of the Board of Regents, 1860 Van Hise Hall, 1220 Linden Drive, Madison, WI 53706, ph 608-262-2324. <http://www.uwsa.edu/bor/policies/>

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