DATE: August 13, 2014

TO: Chancellors
    Provosts
    SSAOs
    Faculty Representatives
    Academic Staff Representatives

FROM: Ray Cross

RE: Proposed changes to Board administrative rules

The U.S. Department of Education has reaffirmed that Title IX protects students from sexual harassment carried out by institutions of higher education employees. The U.S. Department of Education has issued guidance through Dear Colleague Letters, which establish the federal agency’s expectations for institutions of higher education that receive federal funding. This guidance is being enforced by the U.S. Department of Education through the Office of Civil Rights.

The University of Wisconsin System (UW System) Administration seeks to modify several Board of Regents (Board) administrative rules, known as Ch. UWS 4, Wis. Admin. Code, “Procedures for Dismissal of Faculty;” Ch. UWS 7, Wis. Admin. Code, “Dismissal of Faculty in Special Cases;” Ch. UWS 11, Wis. Admin. Code, “Dismissal of Academic Staff for Cause;” and Ch. UWS 17, Wis. Admin. Code, “Nonacademic Student Misconduct.” All UW System institutions are affected by the proposed rule revisions articulated in the scope statements.

Section 36.13(3), Wis. Stats., reads as follows:

Rules. The board and its several faculties after consultation with appropriate students shall promulgate rules for tenure and probationary appointments, for the review of faculty performance and for the non-retention and dismissal of faculty members. Such rules shall be promulgated under ch. 227.

Section 36.13(5), Wis. Stats., reads as follows:

Procedural Guarantees. Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person’s contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final, subject to judicial review under ch. 227. The board and its several faculties shall develop procedures for the notice and hearing which shall be promulgated by rule under ch. 227.
The Board has statutory authority for Chapter UWS 11. Section 36.15(3), Wis. Stats., reads as follows:

Procedural Guarantees. A person having an academic staff appointment for a term may be dismissed prior to the end of the appointment term only for just cause and only after due notice and hearing. A person having an academic staff appointment for an indefinite term who has attained permanent status may be dismissed only for just cause and only after due notice and hearing. In such matters the action and decision of the board, or the appropriate official authorized by the board, shall be final, subject to judicial review under ch. 227. The Board shall develop procedures for the notice and hearing which shall be promulgated as rules under ch. 227.

The Board also has statutory authority for Chapter UWS 17 under s. 36.35, Wis. Stats., which reads as follows: “The board shall promulgate rules under ch. 227 governing student conduct and procedures for the administration of violations.”

Regent approval of the attached scope statements will result in the creation of three drafting committees consisting of legal staff, faculty, academic staff, and student representatives, as well as UWSA staff, and others, as appropriate, to determine any needed changes in wording or substance of Chapters UWS 4, 7, 11, and 17, as described and delimited in the scope statements.

The modifications that the scope statements describe and delimit would reflect, among other things, changes in Chapters UWS 4, 7, 11, and 17 that would alter the burden of proof and evidence in disciplinary processes and the role of a complainant in those disciplinary processes. The Attorney General of Wisconsin and the Governor have approved these scope statements. The proposed edits and changes will be vetted by Chancellors, Provosts, and governance bodies at each UW institution. The timeframe for bringing drafting committee recommendations to the Board for a first reading would be spring 2015.

cc: Board of Regents  
Vicki Washington, Associate Vice President for Inclusivity, Diversity, Equity and Student Success  
Anne Bilder, Senior System Legal Counsel