



## NONACADEMIC MISCONDUCT HEARING MATERIALS

**Respondent's Name:** [REDACTED]

**Respondent's Advisor:** [REDACTED]

**Investigating Officer(s):** [REDACTED]  
[REDACTED]

**Hearing Date:**

[REDACTED]

**Hearing Time:**

[REDACTED]

**Hearing Location:**

Microsoft Teams

**Hearing Committee:**

[REDACTED]

[REDACTED]

[REDACTED]

**Witnesses:** [REDACTED]

**Staff to Hearing Committee:**

[REDACTED]

[REDACTED]

## Nonacademic Misconduct Hearing Outline – Hearing Committee (Title IX)

1. Pre-Hearing: The Hearing Committee and Office of Legal Affairs counsel to the Committee – meet 15 minutes prior to the start of the hearing.
  - a. Ensure that quorum is present (at least two Committee members).
  - b. Ensure that hearing packets were received and reviewed.
  - c. Clarify policy interpretations (including UWS 17 and 18) with counsel, if necessary.
  - d. Select Chairperson (chairs the hearing) and Recorder (prepares the draft of the written decision).
  
2. Hearing:
  - a. Ask all parties, their advisors, the Investigating Officer, and OSCCS staff to the Committee to enter the room.
  - b. Ensure that the audio recording device is turned on and properly functioning (OSCCS staff to the Committee or Investigating Officer).
  - c. The Chairperson reads the following statement:
 

*“Good Morning. This is a Nonacademic Misconduct Hearing being held on April 15, 2020, meeting via Microsoft Teams with the University of Wisconsin-Madison. The University of Wisconsin authorizes this hearing under Chapter UWS 17, to decide cases of alleged misconduct and uphold the standards of conduct expected of students while protecting the integrity of the process. I am [YOUR NAME], and I am serving as the Chairperson of this hearing. I confirm that a quorum of the Committee is present.”*

*“Consistent with the provisions of the Wisconsin Open Meetings Law and the Family Educational Rights and Privacy Act of 1974, as amended (FERPA), this hearing is being conducted in closed session. Events, statements, and outcomes of this hearing are not to be discussed outside this room except as authorized by FERPA or other applicable laws.”*

*“This hearing is being audio recorded to preserve the record. To assure a quality recording, I ask that people speak in a loud, clear voice. In addition, all participants must refrain from any activity that disrupts the hearing process or interferes with a quality recording. Accordingly, I ask that you silence all electronic devices at this time.”*

*“At this time, would the members of the Committee, Office of Legal Affairs counsel to the Committee, OSCCS staff to the Committee, Investigating Officer, and Respondent who is the subject of this hearing and their Advisor (if applicable) please state your name and role here today?”*

*"This hearing is intended to be informal and will proceed as follows: The Investigating Officer will present information, documents, and witnesses in support of their determination and recommendation in this case. The Committee, and Respondent will have the opportunity to ask questions of the Investigating Officer and any witnesses. When finished, the Respondent will present information, documents, and witnesses in support of their position. The Committee and Investigating Officer will have the opportunity to ask questions of the Respondent and any witnesses. The Investigating Officer, and Respondent may each make a final summary statement after which all participants will be excused from the room, upon which the Committee will deliberate in closed session. Witnesses who are not parties may not ask questions and will be excused from the hearing room once they are done providing their information. Parties, their advisors, and witnesses are expected to conduct themselves in a cordial manner. As Chairperson, I reserve the right to take appropriate steps to maintain order. I may also temporarily suspend the hearing to grant rest breaks or allow the participants the opportunity to consult with their respective advisors." <NOTE: If the hearing is recessed, the Chairperson must reintroduce the hearing for the audio recording device when the hearing reconvenes.>*

*"Any Advisor to the Respondent is limited to advising their respective Respondent and may not directly address the Committee, Investigating Officer, or witnesses, or present information unless this case involves suspension or expulsion, or the Respondent is charged with a crime for the same conduct disciplinary action is sought in this case. In either situation, the Respondent is expected to respond on their own behalf to questions asked during the hearing."*

- d. The Chairperson reads the appropriate charge(s) from the UWS Administrative Code and asks the Respondent to "admit" or "deny" each of them, individually:

*"I am now going to state each charge of nonacademic misconduct and ask the Respondent to either "admit" or "deny" responsibility for each alleged violation. If you "admit" to all charges, we will hear information related to the proposed sanction. If you "deny" any charges, we will proceed with questioning to determine if there was a violation."*

*"To the allegation that you violated UWS Administrative Code:*

***17.09(11) False statement or refusal to comply regarding a university matter. Making a knowingly false oral or written statement to any university employee or agent of the university regarding a university matter, or refusal to comply with a reasonable request on a university matter,***

*do you "admit" or "deny" violating said policy?"*

*"To the allegation that you violated UWS Administrative Code:*

***17.09(16) Noncompliance with disciplinary sanctions. Conduct that violates a sanction, requirement, or restriction imposed in connection with previous disciplinary action,***

*do you "admit" or "deny" violating said policy?"*

*"To the allegation that you violated UWS Administrative Code:*

***17.09(16) Sexual Harassment. Conduct defined in s. 111.32 (13), Stats., or as defined in Board of Regent Policy that addresses sexual harassment,***

*do you "admit" or "deny" violating said policy?"*

*<Script continues on next page>*

*"Are there any other preliminary matters or questions to be addressed before we commence with the hearing?"*

Ask the Respondent whether they plan to offer verbal testimony on their own behalf, answer questions, and/or present witnesses.

*"We will now commence with the hearing."*

### 3. Procedures for Hearing Information:

- a. The Chairperson asks the Investigating Officer to present their case.
- b. The Committee may ask questions of the Investigating Officer.
- c. The Complainant (or Advisor, if applicable) may ask questions of the Investigating Officer (if applicable).\*
- d. The Respondent (or Advisor, if applicable) may ask questions of the Investigating Officer.
- e. The Investigating Officer may present witnesses. The Investigating Officer may ask questions of witnesses, or ask witnesses to make a statement. The Chairperson will ask each witness to state their name for the audio recording.
- f. The Committee may ask questions of any witnesses.
- g. The Complainant (or Advisor, if applicable) may ask questions of any witnesses (if applicable).\*
- h. The Respondent (or Advisor, if applicable) may ask questions of any witnesses.
- i. Witnesses are excused (unless they are a party) after the Chairperson informs them to not speak to any other witnesses waiting to appear at the hearing. <Repeat steps e-h as needed.>
- j. The Chairperson asks the Complainant (or Advisor, if applicable) to make their statement regarding the case, the charges against the Respondent, and results of the Investigating Officer's investigation (if applicable).\*

- k. The Committee may ask questions of the Complainant (if applicable).\*
- l. The Investigating Officer may ask questions of the Complainant (if applicable).\*
- m. The Respondent (or Advisor, if applicable) may ask questions of the Complainant (if applicable).\* <Questions may be asked through the Chairperson.>
- n. The Complainant (or Advisor, if applicable) may present witnesses (if applicable).\* The Complainant (or Advisor, if applicable) may ask questions of witnesses, or ask witnesses to make a statement (if applicable).\* The Chairperson will ask each witness to state their name for the audio recording (if applicable).\*
- o. The Committee may ask questions of any witnesses (if applicable).\*
- p. The Investigating Officer may ask questions of any witnesses (if applicable).\*
- q. The Respondent (or Advisor, if applicable) may ask questions of any witnesses (if applicable).\*
- r. Witnesses are excused (unless they are a party) after the Chairperson informs them to not speak to any other witnesses waiting to appear at the hearing (if applicable). <Repeat steps n-q as needed (if applicable).>\*
- s. The Chairperson asks the Respondent (or Advisor, if applicable) to make their statement regarding the case, charges against them, and results of the Investigating Officer's investigation.
- t. The Committee may ask questions of the Respondent.
- u. The Investigating Officer may ask questions of the Respondent.
- v. The Complainant (or Advisor, if applicable) may ask questions of the Respondent (if applicable).\* <Questions may be asked through the Chairperson.>
- w. The Respondent (or Advisor, if applicable) may present witnesses. The Respondent (or Advisor, if applicable) may ask questions of witnesses, or ask witnesses to make a statement. The Chairperson will ask each witness to state their name for the audio recording.
- x. The Committee may ask questions of any witnesses.
- y. The Investigating Officer may ask questions of any witnesses.
- z. The Complainant (or Advisor, if applicable) may ask questions of any witnesses (if applicable).\*



- aa. Witnesses are excused (unless they are a party) after the Chairperson informs them to not speak to any other witnesses waiting to appear at the hearing. <Repeat steps w-z as needed.>
- bb. The Investigating Officer provides a final summary statement.
- cc. The Complainant (or Advisor, if applicable) provides a final summary statement (if applicable).\*
- dd. The Respondent (or Advisor, if applicable) provides a final summary statement.
- ee. The Chairperson proceeds to #5 (below).

#### 4. Concluding Hearing:

- a. The Chairperson reads the following statement:  
*"This completes the hearing portion of this matter. The Committee will now deliberate in closed session. The parties will be informed of the decision soon after deliberations are complete. The OSCCS staff to the Committee (or Investigating Officer) will ask the Respondent after we adjourn how they would like to be notified. A written decision detailing the Committee's basis for its decision will be sent to all parties within 14 days."*  
*"This concludes the hearing. Everyone except the Committee and counsel to the Committee is excused from the hearing room."* <Conduct authorized closed session.>

#### 5. Deliberations to Determine Responsibility for Policy(ies) and/or Sanction(s):

- a. Make sure the audio recording device is turned off (if not removed by the Investigating Officer or OSCCS staff to the Committee) and no one except the Committee and counsel to the Committee is present in the hearing room.
- b. The Committee reviews the case, keeping in mind the applicable standards:
  - i. Preponderance of the evidence ("more probably true than not true"):
    - a. All disciplinary matters except when the recommended sanction is suspension, expulsion, or enrollment restrictions on a course or program.
    - b. All sexual assault, sexual harassment, dating violence, domestic violence, or stalking cases regardless of recommended sanction.

ii. Clear and convincing evidence (“firm belief...more likely true than not true”):

- a. All disciplinary matters when the recommended sanction is suspension, expulsion, or enrollment restrictions on a course or program (except sexual assault, sexual harassment, dating violence, domestic violence, or stalking cases).
- c. The decision of responsibility for any policy(ies) is made by a simple majority vote of the Committee.
- d. If the Respondent is found responsible for any policy(ies), the Committee considers current incident, prior misconduct, and recommendations when discussing options for sanction(s).
- e. The decision of sanction(s) and conditions (if applicable) is made by a simple majority vote of the Committee.

6. Announcement of Decision:

- a. Following deliberations, the counsel to the Committee informs the OSCCS staff to the Committee (or Investigating Officer) of the decision. The OSCCS staff to the Committee (or Investigating Officer) notifies all relevant parties, including the Respondent and Complainant, of the Committee’s decision either by phone or email, as requested by the Respondent and Complainant.
- b. The Recorder prepares the draft written decision with assistance from the counsel to the Committee. Upon approval of the Committee, the counsel to the Committee forwards the written decision to the OSCCS staff to the Committee (or Investigating Officer).
- c. The OSCCS staff to the Committee (or Investigating Officer) distributes the written decision via email to relevant parties, including the Respondent and Complainant.
- d. The OSCCS staff to the Committee (or Investigating Officer) will update the official record (database and file) and complete any additional administrative work.

7. Appeal: The Committee’s decision becomes effective and is the final institutional decision upon the expiration of the deadline for an appeal to the Chancellor (if no appeal is filed) or upon the issuance of the Chancellor’s decision (if an appeal is filed).

- a. Chancellor – On the Record (UWS 17.13): Where the sanction prescribed by the Committee is suspension, expulsion, or enrollment restriction on a course or program or if the case involves a charge(s) of sexual assault, sexual harassment, dating violence, domestic violence, or stalking, the Respondent or Complainant (\*if applicable) may appeal to the Chancellor within 14 days of the date of the written decision to review the Committee’s decision based upon the record. The Chancellor has 30 days from receipt of the Respondent’s appeal to respond and shall sustain the opinion of the Committee unless he or she finds any of the following:

- i. The information in the record does not support the findings or decision of the Committee.
- ii. Appropriate procedures were not followed and material prejudice to the Respondent or Complainant resulted.
- iii. The Committee's decision was based on factors proscribed by state or federal law.

If the Chancellor makes a finding under the criteria noted above, he or she may return the matter for consideration by a different Hearing Committee or Examiner, or may invoke an appropriate remedy of his or her own. If the Chancellor sustains the opinion of the Committee or invokes an appropriate remedy of his or her own, then the Chancellor's decision is the final institutional decision..

- b. Board of Regents – Discretionary (UWS 17.14): Within fourteen days of the final institutional decision, the Respondent or Complaint may request a review by the UW Board of Regents. The UW Board of Regents, at its discretion, may grant a review upon the record..

#### \*Complainant participation

- A Complainant (and Advisor, if applicable) who chooses to fully participate in the hearing will be afforded the same opportunities for participation as those afforded to the Respondent (and Advisor, if applicable).
- A Complainant who chooses to appear only as a witness presented by the Investigating Officer: 1) must answer questions from the Hearing Committee and Respondent (or Advisor, if applicable) <questions may be asked through the Chairperson>; 2) may still be accompanied by an Advisor whose role would be the same as any Advisor for the Respondent; 2) may remain in the room during the duration of the hearing; and 3) will be notified of the outcome of the hearing, as noted above.
- A Complainant who chooses not to answer questions from the Hearing Committee or Respondent may not speak or ask questions during the hearing but may 1) still be accompanied by an Advisor, although that Advisor may not speak during the hearing; 2) may remain in the room during the hearing; and 3) will be notified of the outcome of the hearing, as noted above.

#### Guidelines for New Information Presented at Hearing

UW-Madison strives to conduct thorough and impartial investigations into allegations of non-academic misconduct, including matters involving sexual assault, sexual harassment, dating violence, domestic violence, and stalking. Respondents and Complainants are given the opportunity to participate fully during the investigatory process, to provide information to OSSCS prior to the Investigating Officer rendering a decision, and to provide information for the hearing packet that is distributed at least five days in advance of the hearing. The University's non-academic misconduct process seeks information about facts related to



the alleged misconduct violation and impacts on the Respondent and Complainant resulting from the alleged violation and last minute requests to present new material to the Hearing Committee should be avoided by Respondents and Complainants. Accordingly, providing written information after the hearing packet has been distributed is disfavored and subject to the following guidelines.

- If either the Respondent or Complainant seeks to provide new written factual information to the Hearing Committee relevant to an allegation of sexual assault, sexual harassment, dating violence, domestic violence, or stalking, the Hearing Committee will:
  - Allow a break so that the parties, Investigating Officer, and Hearing Committee can review the information;
  - Allow the parties and Investigating Officer to provide a brief statement to the Hearing Committee regarding why the information should or should not be considered;
  - Not make admissibility rulings during the hearing, but reserve the right to consider argument by the parties or Investigating Officer when deciding whether to factor the new information into its decision.
- Respondents and Complainants will only be permitted to provide verbal information about the impact they experienced from the alleged misconduct and University disciplinary proceedings if they agree to answer questions from the Hearing Committee, Investigating Officer, and opposite party (Respondent or Complainant).
  - Presentation of such impact information can further the educational purpose of the hearing and might be relevant to sanctions.
  - However, the Hearing Committee will not consider impact in making its determination regarding whether or not non-academic misconduct occurred.

***Materials Provided by the Investigating Officer:***