Motion:

That the following policy be printed in every Schedule of Classes and Undergraduate Bulletin [or Catalog if there is a name change]:

POLICY

Course Time Conflicts/Overlaps

Students must obtain, in advance, instructors' approval to enroll in courses which have any time conflict or overlap. Failure to do so may result in students being administratively dropped from courses.

Rationale:

Data from the Department of Enrollment Services shows that students, via various means, can and are enrolling in two or more courses at the same days and times. It is important than an instructor have the authority to disenroll a student if s/he determines it is not possible for the student to fulfill all necessary requirements to achieve a satisfactory grade.
Motion

The University Committee recommends the following modifications to UWM Policies and Procedures Chapter Five, Sections 5.40 – 5.48 (original section numbers). Text removed = strikethrough, e.g., remove; text added = bold typeface:

5.40 Authorization of Faculty Rights and Responsibilities Committee. The faculty shall elect, in conformity with §5.44 a Faculty Rights and Responsibilities Committee.

5.41 Faculty Rights and Responsibilities. University faculty members as defined in §5.01 shall be subject to discipline only for conduct which: (a) Violates university rules or policies or (b) adversely affects the faculty member’s performance of his/her obligations to the university but which are not serious enough to warrant dismissal procedures.

5.42 Disciplinary Procedure Exclusive

Discipline shall be imposed on any faculty member pursuant to the procedure hereinafter provided, except that dismissal charges are subject to the provisions of 5.24 through 5.28.

5.43 2 Discipline Defined. Discipline may include, but is not limited to, the following proposed actions by an appropriate official of the University. Such actions shall be commensurate with the nature of the complaint:

(1) An oral reprimand;

(2) A written reprimand;

(3) Temporary reassignment or other restrictions on duties for a period to be determined;

(4) Temporary or permanent restriction of access to university property or services;

(5) Reimbursement for damages to, destruction, or misappropriation of university property or services;

(6) Reduction in salary or reduction of an increase in salary recommended by the department, other than for budgetary reasons;

(7) Suspension without pay for a specified period of time.

Counseling and/or other rehabilitative intervention may be considered as an alternative or supplement to discipline.

(Document 1950 (Amended), 12/15/94; UWM Administration approval, 12/28/94; Regent approval, 3/10/95)
5.423 Disciplinary Procedure Exclusive. Discipline shall be imposed on any faculty member pursuant to the procedure hereinafter provided, except that dismissal charges are subject to the provisions of 5.21 through 5.28.

5.431 Complaints Against Faculty Members. Complaints against faculty members alleging facts which, if true, might constitute adequate cause for discipline shall be in writing and shall be filed with the Vice Chancellor. Complaints which involve discriminatory conduct (which includes sexual harassment) will adhere to policies and procedures as defined in UWM Discriminatory Conduct Policy (No. S-47). With the exception of extraordinary circumstances, complaints will be filed within 300 days of the incident that gave rise to the complaint. Pursuant to UWS 6.01, complaints against faculty members may be initiated by the administration, students, academic staff members, other faculty members, classified staff members, or members of the public.

5.432 Action by Vice Chancellor on Complaints. The Vice Chancellor shall provide a copy of the written complaint to the faculty member within two days of its receipt. Within ten days of receiving the complaint, the Vice Chancellor shall determine whether a \textit{prima facie} case exists for the imposition of discipline. If a \textit{prima facie} case does not exist, the complaint shall be dismissed.

5.433 Discipline of Faculty Members. If the Vice Chancellor determines that a \textit{prima facie} case exists for imposition of discipline, he/she shall inform the faculty member, in writing, of the determination and that the faculty member has the right to have the case heard either by the Vice Chancellor or by the Faculty Rights and Responsibilities Committee. If, within ten days, the faculty member requests, in writing, that the Faculty Rights and Responsibilities Committee hear the case, the Vice Chancellor shall cease all further action and send all pertinent files to the Faculty Rights and Responsibilities Committee. Otherwise, the case will be heard by the Vice Chancellor.

5.4331 Cases to be heard by the Vice Chancellor. If the faculty member chooses to have the Vice Chancellor hear the case, the Vice Chancellor shall institute an investigation, allowing the faculty member to present, within 30 days, evidence and arguments concerning the allegation. The Vice Chancellor shall complete his/her disposition of the case within 60 days following receipt of the faculty member’s request that the Vice Chancellor hear the case. Following this period, the Vice Chancellor shall:

(1) dismiss the case. Or

(2) refer the complaint to the department in which the faculty member concerned holds membership if the investigation indicates that further action at the Vice Chancellor’s level is not warranted. The Vice Chancellor shall give due notice of his/her actions, and rationale, to the faculty member concerned and to the Faculty Rights and Responsibilities Committee. Or
(3) Inform the faculty member of the disciplinary action he/she considers appropriate and that will be recommended to the Chancellor, and inform the faculty member of their right to appeal the intended discipline to the Faculty Rights and Responsibilities Committee.

If the faculty member appeals to the Faculty Rights and Responsibilities Committee, imposition of disciplinary action shall be held in abeyance pending the outcome of the appeal.

5.4332 Cases to be Heard by the Faculty Rights and Responsibilities Committee. If the faculty member chooses to have the Faculty Rights and Responsibilities Committee hear the case, the Faculty Rights and Responsibilities Committee shall consider the case de novo, providing the faculty member with the right to a fair hearing as defined in UWM Policies and Procedures §5.45(3). The Faculty Rights and Responsibilities Committee shall complete its disposition of the case within 60 calendar days following receipt of the faculty member’s request that the Faculty Rights and Responsibilities Committee hear the case. In the event that the Faculty Rights and Responsibilities Committee is unable to complete its disposition within 60 days, the committee will inform the University Committee and the Vice Chancellor in writing of the need to extend the required time period, a rationale for extending the time period, and a time line for completing the disposition of the case. The Faculty Rights and Responsibilities Committee shall make a recommendation to the Chancellor to:

(1) dismiss the case. Or
(2) refer the complaint to the department in which the faculty member concerned holds membership if the investigation indicates that action at the Chancellor’s level is not warranted. Or
(3) take a specific disciplinary action or a specific corrective non-disciplinary action.

The decision of the Faculty Rights and Responsibilities Committee, following the de novo consideration, is not appealable to any other faculty body.

Within ten (10) days after the transmittal of the findings and recommendations of the committee, the faculty member or the complainant may file written objection(s) with the Chancellor. Any objection(s) must be based on the record as developed at the hearing before the committee. The Chancellor shall render his/her decision, within ten days after the expiration of this 10-day period and transmit such decision to the faculty member, the complainant and the committee. The decision of the Chancellor shall be final except that the Board of Regents at its option may grant a review of the record.

5.434 Department Responsibility in Discipline Cases. In cases in which the Vice Chancellor or Chancellor have referred a prima facie case for the imposition of discipline to the department, the department shall, within 60 calendar days, notify in writing the Faculty Rights and Responsibilities Committee and the Vice Chancellor of the ultimate disposition of the case.
5.435 Review of Disposition of Complaints. An independent investigator, to be appointed by the University Committee, in consultation with the Chancellor, shall, every two years, conduct a thorough examination of all complaints against faculty members, including the eventual disposition of those complaints, whether by the Vice Chancellor, the Faculty Rights and Responsibilities Committee, or the department. The independent investigator shall report, in writing, his/her findings to the University Committee and the Chancellor.

And,

5.44 Faculty Rights and Responsibilities Committee

(1) Membership.

Seven (7) tenured members of the faculty, no more than two (2) of whom shall be from a single faculty division. No more than three (3) members shall be from a single school, college, or equivalent academic unit, and no more than one (1) member shall be from a single department in a departmentalized school or college. Members who have been elected to and have served a full three-year term are not eligible for re-election until two (2) years have elapsed. Members who are elected to a partial term are eligible for reelection.

(2) Nominations and Elections.

Nominations for election to the committee shall be by the Nominations Committee and by the faculty in accordance with the regular procedures for elected faculty committees. Elections shall be conducted in the same manner as for other faculty committees.

(3) Chairperson.

In the spring semester, the committee shall elect a chairperson for the following year from among its continuing members. The decision shall be communicated to the Secretary of the University by April 15. The duties of the new chairperson will commence on the first day of the fall semester, except that the new chairperson may serve over the summer by agreement of the committee in the event that the incumbent chairperson is unable to serve.

(4) Functions.

Upon referral by the University Committee, Pursuant to the provisions of s. UWS 6.01, Wis. Adm. Code, holds hearings concerning allegations of misconduct, which may include alleged human rights violations, made against one or more faculty members or against a faculty body and makes recommendations to the Chancellor concerning disciplinary action or appropriate corrective non-disciplinary action. The Committee may consult informally with individuals concerning questions which may lead to allegations of misconduct prior to the filing of formal complaints with the University
The Committee also hears appeals of intended disciplinary action to be brought by the Chancellor following the Vice Chancellor's investigation of a complaint against a faculty member and they may hear it as a de novo case.

(Document 1088, 4/20/78; UWM Administration approval, 4/26/78; Regent approval, 7/14/78)
(Document 1648, 1/26/89; UWM Administration approval, 2/11/89; Regent approval, 7/7/89)
(Document 1691, 12/21/89; UWM Administration approval, 2/8/90)

5.45 Committee Procedures

(1) Notification.

The committee shall examine all complaints to determine whether a prima facie case exists. When a written complaint is lodged with the committee, the faculty member involved shall be notified. If the committee decides on any action other than dismissal of the complaint, the faculty member concerned shall be informed at once.

(2) (1) Legal Counsel.

At the request of the committee the University shall provide it with legal counsel.

(3) (2) Fair Hearing.

Whenever it is decided to utilize formal fact-finding procedures, the concerned faculty member shall be assured of a fair hearing, including the right to present
testimony or evidence in the faculty member’s behalf, to cross-examine
witnesses, and to be represented by any person of the faculty member’s choice.
The departmental executive committee shall be consulted, and shall have an
opportunity to present evidence through its chairperson or other representative.
The provisions for a fair hearing shall include:

(a) Service of notice of hearing with a specification of the complaint
    at least twenty (20) days prior to the hearing.

(b) A right to the names of the parties bringing the complaints and of
    access to any documents which may be relevant to the complaint.
    Adjournments shall be granted to investigate evidence to which a
    valid claim of surprise is made.

(c) A right to be heard in his/her own defense by all bodies passing
    judgment.

(d) A right to counsel or other representative and to offer witnesses.

(e) A right to confront and cross-examine witnesses against him/her.

(f) A tape recording shall be made of the hearing. A copy of the tape
    shall be made available without cost, upon request, to the
    concerned faculty member.

(g) The admissibility of evidence is governed by Wis. Stats. 227.45.

(h) A finding of misconduct must be based on a clear preponderance
    of the evidence.

(i) Findings of fact and recommendations based on the hearing
    record.

(j) The right to either a public or a closed hearing at the discretion of
    the faculty member concerned.

(k) The right to prompt consideration and deliberation by the
    committee.

(4) (3) Findings.

A finding of misconduct and recommendations for disciplinary action shall be
reported only when at least five (5) members of the committee concur. When
this condition is not met, a finding of no misconduct shall be reported. The vote
shall be reported in any case. If a member disqualifies himself in a particular
case, the University Committee shall name a replacement except when the
disqualification occurs after the hearing has commenced.
(5) (4) **Transmittal of Findings.**

The committee shall transmit its findings and recommendations in writing to the Chancellor and the faculty member involved within ten (10) days after the conclusion of its proceedings.

(6) (5) **Further Jeopardy Prohibited.**

Following the recommendations of the committee, the faculty member involved shall not be charged again for the same misconduct.

(Document 1518, 11/20/86; UWM Administration approval, 11/29/86; Regent approval, 4/10/87)

5.46—Objection(s) and Decision

(1) **Filing of Objections.**

Within ten (10) days after the transmittal of the findings and recommendation of the committee, the faculty member or the complainant may file written objection(s) with the Chancellor.

(2) **Objections Based on the Record.**

Any objection(s) must be based on the record as developed at the hearing before the committee.

(3) **Chancellor’s Decision.**

The Chancellor shall, as soon as practicable after the expiration of this 10-day period, render his/her decision and transmit such decision to the faculty member, the complainant and the committee.

5.4746 **Right of Appeal**

The decision by the Chancellor on the committee recommendation or on the complaint in the absence of committee recommendation shall be final, except that the Board of Regents, at its option, may grant a review on the record.

5.4847 **Committee Reports to the Faculty**

The committee shall report to the Senate at appropriate times, but at least annually.

**Rationale:**

The proposed legislation is in response to recent confusion regarding faculty disciplinary procedures. Some faculty members believe that the so-called “administrative route” to resolving complaints against faculty members violates UWM Policies and Procedures 5.40 - 5.48. The proposed legislation seeks to clarify disciplinary procedures, to maintain a faculty
role in resolving complaints against faculty, and to institute a review process over how complaints against faculty are resolved.

Members, University Committee
Professor Randall Ryder, Chair
Professor Laurie Glass
Professor John (Jay) Moore
Professor Genevieve McBride
Professor James Sappenfield
Professor Gabrielle Verdier
Professor Yehuda Yannay

Revised: 4/99

Satisfies the Codification Committee's criteria for clarity, internal consistency, and relationship to other policies and procedures governing UWM.