DISCRIMINATORY CONDUCT POLICY (Including Sexual Harassment)

No. S-47 (replacing 17.5 and 47a,b)
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Authority: Regent Resolution #2384 (amended 4/10/87), UWM Faculty Document #1605, #1607 and UWM Administration

RATIONALE

The University of Wisconsin-Milwaukee ("UWM") remains steadfastly committed to the principles of academic freedom and to the ideal that the "fearless sifting and winnowing by which alone the truth can be found" is the definitive feature of an institution of higher education. This steadfast commitment requires an equally strong obligation to foster respect for the dignity and worth of each person. Without this respect, the principles of academic freedom become meaningless. Moreover, relationships such as student-faculty and employee-supervisor have inherent power differences that compromise the ability of some people to protect their own rights. Therefore, the university must provide an environment that respects the value of each person and that does not tolerate discriminatory conduct of any kind. The entire university community must work together to promote an environment free of discrimination. To that end, deans, division heads, department chairs, directors and immediate supervisors are responsible for enforcing the policies outlined herein.

I. POLICY STATEMENT

Discriminatory conduct, which includes sexual harassment, is reprehensible and will not be tolerated by the university. It is damaging to the academic community as a whole and threatens the careers, educational experience, and well-being of students, faculty and staff. The university will not tolerate behavior between or among members of the university community which creates a hostile educational or working environment. The university also recognizes that discriminatory conduct may occur in a variety of other circumstances. Therefore, the university will not tolerate discriminatory behavior by vendors and contractors against members of the university community.

Sexual harassment is especially serious when it compromises the relationship between teacher and student or supervisor and employee because it involves an abuse of power inherent in the supervisor's position. Through control over grades, evaluations, recommendations, wages and promotions, an instructor or supervisor can have a decisive influence over the career of a student, staff person or faculty member within the university and beyond. When, through fear of reprisal, a student, staff member or faculty member submits to or is pressured to submit to unwanted sexual attention, the university's ability to carry out its mission is undermined.

It is the practice of UWM that all students and employees shall be fully informed of campus policy and procedures regarding discriminatory conduct. There shall be an active and continuing program to inform students and campus personnel of how and where to complain about discriminatory conduct both on campus and to appropriate federal and state agencies. The Office
of Diversity/Compliance has primary responsibility to coordinate this publicity. Procedures governing complaint and appeal handling may also be found in The University of Wisconsin-Milwaukee Policies and Procedures 5.45 - 5.47 and UWS 6.01, for faculty; UWS 13.01, Wis. Admin. Code and Chapter 111 of the Academic Staff Personnel Policies and Procedures, for academic staff; and UWM Student Discrimination Complaints S-49, and Wisconsin Stats. 36.12.

Employees who engage in either discriminatory conduct or retaliation will be subject to appropriate disciplinary action. Student conduct is governed by Chapter UWS 17 of the Wisconsin Administrative Code and is not affected by this policy. The dean of students is responsible for seeking resolution of cases in which all parties are students or student organizations.

II. DEFINITIONS

A. Discriminatory Conduct

For purposes of this policy, "discriminatory conduct" is defined as conduct, either verbal or physical, by an employee which (1) occurs on property under the jurisdiction of the University of Wisconsin Board of Regents or under circumstances where an affiliation with UWM is significant in the occurrence; and (2) is predicated on considerations of any of the following: race or color, national origin, creed, ancestry, sex, sexual orientation, age (40 years or older), religion or disability (See the UWM Reasonable Accommodation Policy), disabled veterans and veterans of the Vietnam era; and (3) has the purpose and effect of adversely affecting any aspect or condition of a person's education, employment, housing or participation in a university activity or program of study. UW-System and the University of Wisconsin-Milwaukee are obligated to protect students, faculty and staff from discriminatory conduct under all relevant state and federal anti-discrimination laws which include but are not limited to:

Executive Order 11246, Titles VI, VII and IX of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act and Wisconsin Fair Employment Act.

B. Sexual Harassment

For purposes of this policy, "sex discrimination" includes sexual harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, whether or not repeated, to a person of the same or opposite sex, when:

(1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment and/or status in the university course, program or activity; or

(2) Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or
(3) Submission to or rejection of such conduct creates a hostile work or educational environment; or
(4) Conduct is sufficiently severe and pervasive as to substantially interfere with a similarly situated reasonable person's work performance or educational experience, or create an intimidating, hostile or offensive work or learning environment.

A complaint lodged against speech of a sexual nature used in the context of an instructional setting may be found to constitute sexual harassment, only if the speech is persistent, pervasive, and not germane to the subject matter, or so singularly severe as to create a hostile environment. (See WSA 111.32, 20138[13]). The following guidelines apply in allegations of protected and unprotected expressive behaviors in instructional settings:

1. An instructional setting is a setting in which a faculty member or instructor is communicating with student(s) regarding specific academic or curricular matters the instructor or faculty member is responsible for teaching. These situations include, but are not limited to, such communication in a classroom, in a laboratory, during a field trip and in the instructor's office. Advising and counseling situations are not included nor are off campus social meetings regardless of the context.

2. "Expressive behavior" is conduct in an instructional setting through which an instructor seeks to communicate with students. It includes, but is not limited to, the use of visual materials, oral or written statements, and assignment of visual, recorded, or written materials. The assignment of these materials must be germane to the subject matter and have educational merit. The conduct may be found to be sexual harassment, only if the speech is persistent, pervasive, and not germane to the subject matter, or so singularly severe as to create a hostile environment. A hearing must commence within 72 hours of incident to avoid disruption to the classroom.

   a. Protected Expressive Behavior #2

(1) An instructor's selection of instructional materials and teaching techniques shall not be the basis for discipline unless an authorized hearing body finds clearly unreasonable the instructor's claim that the materials or techniques are germane to the subject of the course. This hearing body shall hear the case within 72 hours of the incident to avoid further disruption of the classroom.

(2) If an instructor claims that expressive behavior constituted an opinion or statement germane to the subject matter of the course in which the behavior occurred, the behavior shall not be a basis for disciplinary action unless an authorized hearing body finds the instructor's claim clearly unreasonable. The hearing body should hear the case within 72 hours to avoid unnecessary disruption to the classroom.

   b. Unprotected Expressive Behavior

An instructor's expressive behavior in an instructional setting may be the basis for discipline if any claim that the behavior is protected under expressive behavior has been rejected; and
(1) A "reasonable person" would consider the behavior to be demeaning to persons of a particular gender, race, cultural background, ethnicity, sexual orientation, or individuals with a disability; and

(2) The person engaging in such conduct has previously been asked not to engage in such conduct or conduct of substantially the same kind; or

(3) The conduct is of such an egregious nature that even a single act would constitute a violation of state or federal anti-discrimination laws.

In allegations of unprotected expressive behavior it must also be established that the conduct seriously interfered with the academic work of a student(s) in the course or that it has created an instructional setting that a "reasonable person" would consider hostile, intimidating, or demeaning to members of the targeted group.

C. Retaliation

It is a violation of this policy for an employee to retaliate against another employee or student for any of the following reasons:

(1) Filing an informal complaint as defined in Section III;
(2) Filing a complaint with the Office of Diversity/Compliance;
(3) Assisting the Office of Diversity/Compliance in the investigation of a complaint;
(4) Exercising the rights granted under the federal Family Medical Leave Act of 1993;
(5) Exercising the rights granted under the Wisconsin Medical Leave Act; or
(6) Filing a complaint with the U.S. Equal Employment Opportunity Commission, the Wisconsin Personnel Commission, Department of Education, or the U.S. Department of Education Office of Civil Rights.

III. INFORMAL RESOLUTION

A. Informal Resolution Within the Division, College, Department or Unit

(1) A person may complain to the division head, dean, director, department chair or immediate supervisor in the unit within which the incident(s) occurred. If a dean, director, division head, department chair or immediate supervisor is the person against whom the complaint is lodged, the complaint should be made to the immediate supervisor of the person against whom the complaint is lodged. The person with whom the complainant makes initial contact serves as UWM's agent for the purpose of processing the complaint.

(2) When a complaint of sexual harassment is made, UWM's agent will inform the complainant of (1) the university's responsibility to act once allegations of sexual harassment are in that agent's knowledge, (2) the possible limitation on confidentiality that may result once the allegations have been made and (3) the availability of a resource person. Each dean and division head shall designate a resource person(s) for the school, college or division. At the option of the complainant, the resource person will be available to explain the complaint and investigation process and act as a source of information. The resource person will hold in confidence the fact
that a complaint exists, and all communications with the individuals involved, except as necessary
to resolve the complaint. At the option of the respondent, an additional resource person will be
available to explain the complaint and investigation process and act as a source of information.

(3) To avoid duplication of efforts, UWM's agent will inform the dean or division head and the
Office of Diversity/Compliance of the complaint in no more than five working days from the
complainant's initial contact with UWM's agent.

(4) UWM's agent will investigate and attempt to resolve the issues raised in the complaint in no
more than 30 working days from the initial contact.

(5) In no more than five working days from the resolution of the complaint, UWM's agent shall
provide written documentation informing the Office of Diversity/Compliance of the outcome.

(6) Realizing that resolution of a complaint may take considerable time, those involved in the
resolution may, with the express written agreement of all parties involved, extend the time for
attempting resolution.

(7) A person must either exhaust the resolution procedure provided under this section or
withdraw his or her complaint from consideration under this section before filing a complaint with
the Office of Diversity/Compliance.

B. Informal Complaint Resolution in the Office of Diversity/Compliance: Conciliation or
Mediation

The Office of Diversity/Compliance investigates complaints of discrimination under this policy.

(1) If a person wishes to initiate informal resolution of a complaint, he or she may contact the
Office of Diversity/Compliance to begin the informal complaint resolution process. As this is an
informal procedure, designed to be less adversarial in nature, formal notice as described in section
IV(2) below will not be given. Upon receipt of an informal complaint, however, the Office of
Diversity/Compliance will contact principals to seek their voluntary cooperation in resolving the
complaint. The Office of Diversity/Compliance will attempt to resolve the complaint in no more
than 30 working days from the date of the complainant's initial contact with the Office of
Diversity/Compliance. The Office of Diversity/Compliance will keep all the parties involved in the
complaint, as well as the chair, dean, director, division head or immediate supervisor, informed of
the complaint status throughout the entire process. The Office of Diversity/Compliance will
inform the appropriate division head, dean, director, department chair or supervisor of the final
resolution in any informal complaint.

(2) A copy of the informal complaint will be provided upon the request of any person directly
involved in the attempt to conciliate or mediate the complaint.

(3) If conciliation or mediation fails or if new allegations arise during the informal process, a
complainant may request that the informal complaint be converted to a formal complaint.

IV. FORMAL COMPLAINT PROCEDURES IN THE OFFICE OF
DIVERSITY/COMPLIANCE

A person may file a formal complaint with the chancellor or in matters of discriminatory conduct his/her designee, the Office of Diversity/Compliance. A formal complaint consists of a written statement clearly outlining the allegations of discriminatory conduct and a request for specific relief. This investigation will be completed within 180 days of the date the formal complaint was filed. The assistant chancellor for Diversity/Compliance will issue findings, conclusions and recommendations as described below.

A. Time for Filing

(1) A formal or an informal complaint must be filed in the Office of Diversity/Compliance within 300 calendar days of the last occurrence of the alleged discriminatory conduct or event. Using applicable legal principles, complaints may be filed in the Office of Diversity/Compliance beyond the period at the discretion of the assistant chancellor for Diversity/Compliance if the complainant can demonstrate a compelling reason for the delay. Pursuing resolution through another proceeding or process, including conciliation or mediation, is not a compelling reason for delay. Federal and state agencies have their own filing deadlines which may be shorter than the deadline provided in this policy. Filing deadlines of federal and state agencies are not extended by the filing of an internal complaint, i.e. external agency filing deadlines continue to run even though a complaint has been filed internally. Complainants should contact each agency for guidance. Upon the request of the complainant, the Office of Diversity/Compliance will provide the addresses and telephone numbers of external agencies responsible for enforcing federal and state laws and regulations prohibiting discrimination on the bases listed in section I above.

(2) The complaint, on a form provided by the Office of Diversity/Compliance, must be filed within 10 working days of the complainant's initial contact with the Office of Diversity/Compliance unless the complainant is converting an informal to formal complaint. If the complaint is filed within this 10-day period, the filing date will relate back to the date of initial contact with the office. If a complaint is dismissed for failing to state a charge under this policy, and then amended, the filing date will relate back to the date the original complaint was filed. In all other instances, the date of filing is the date that the Office of Diversity/Compliance receives the complaint.

(3) The Office of Diversity/Compliance shall make complainants aware of additional avenues of redress through federal and state agencies which hold jurisdiction with respect to anti-discrimination statutes.

B. Who May File

Any UWM student or employee who believes that a UWM employee has discriminated against him or her in violation of this policy may file a complaint in the Office of Diversity/Compliance.

In some instances, students or employees not directly involved in the discriminatory action may have firsthand knowledge of discriminatory conduct. If the conduct is reported to the Office of Diversity/Compliance and upon review, it is deemed to potentially constitute a serious violation of UWM's policies and procedures, the Office of Diversity/Compliance will proceed with an investigation of the allegations without a complaint.
C. Notice

(1) The complaint must contain (a) the basis of the charge, (b) the name(s) of the person(s) alleged to have violated this policy, (c) the date of each alleged discriminatory act, (d) the factual basis for each allegation stated in the complaint, (e) the complainant's signature and (f) the date the complaint was signed.

(2) The complainant, the chancellor and the provost will be provided a copy of his/her formal complaint within five working days of receipt by the Office of Diversity/Compliance. Within 10 working days of the filing of a formal complaint, a copy will be mailed to the respondent and the appropriate division head, dean, department chair, director or supervisor. Included in notification to the respondent will be a request for: 1) relevant documentation pertaining to the complaint; 2) a narrative response in support of their position; 3) a request for witnesses and 4) instructions related to the progression of the investigation.

D. Confidentiality

All persons involved in the resolution of a discrimination complaint are expected to maintain confidentiality. Disclosure of documents obtained or created during the investigation of a complaint, however, may be required under state or federal law. In such cases, confidentiality will be maintained to the extent permitted by law. Records such as student transcripts, medical reports and psychological evaluations are provided additional protection under the law and may not be shared without specific release. Absolute confidentiality cannot be guaranteed.

E. Dismissal of Complaint

The assistant chancellor for Diversity/Compliance may dismiss a case without issuing findings, conclusions and recommendations, with notice to the chancellor and the provost, under any of the following circumstances:

(1) At any stage during the investigation of a formal complaint, if the persons involved resolve the complaint by express written agreement to the satisfaction of all persons involved;

(2) At any stage during the investigation of a complaint, if in the judgement of the assistant chancellor for Diversity/Compliance or provost, the respondent offers a reasonable settlement of the charge and the complainant takes a position that is either contrary to law or unreasonable;

(3) At any stage during the investigation of a complaint, the complainant fails to or refuses to cooperate;

(4) At any stage during the investigation of a complaint, if another proceeding involving the same facts or occurrences relied upon in the complaint filed with the Office of Diversity/Compliance is resolved in the complainant's favor;

(5) At any stage during the investigation of a complaint, the complainant requests dismissal;

(6) If the facts raised in the complaint show that the last alleged discriminatory event or
occurrence took place more than 300 days from the date the complaint was filed with the Office of Diversity/Compliance, or

(7) If the facts raised in the complaint show that the complaint fails to raise a charge under this policy or fails to satisfy the requirements of section IV. However, a complaining party may, at his or her option, revise the original complaint to comply with the requirements of the aforementioned section.

(8) At any stage during the investigation of a complaint, if the assistant chancellor for Diversity/Compliance is notified that the complainant's external charge of discrimination predates the internal filing date when the charges are based on the same facts.

F. Record Keeping

The Office of Diversity/Compliance will maintain confidential records of complaints containing the nature and disposition of complaints filed in that office. An annual summary report will be submitted to the chancellor or chancellor's designee, university legal counsel, the University Committee and the Academic Staff Committee on August 30 of each year.

G. Computation of Time

(1) Under this policy, the "date of receipt" is presumed to be three (3) days, excluding legal holidays and Sundays, from the date of the applicable document.

(2) Under this policy, the day of the occurrence or event from which the designated period of time begins to run shall not be included. The last day of the designated period of time shall be included, unless it is a Saturday, Sunday, or legal holiday. Complainants should be aware that federal and state agencies may not recognize certain religious holidays as "legal holidays" and should take that into account when computing the filing period for federal and state agencies.

H. Findings, Conclusions and Recommendations of the Assistant Chancellor for Diversity/Compliance

At the conclusion of the investigation, the assistant chancellor for Diversity/Compliance will issue findings, conclusions and recommendations to the chancellor or the chancellor's designee, the complainant, the respondent(s) named in the complaint, and the appropriate department chair, director, supervisor, dean or division head. Recommendations issued by the Office of Diversity/Compliance are advisory only.

The chancellor may, upon receipt of the findings, conclusions and recommendations, forward the recommendations to the appropriate governance body for additional review. Faculty hearing procedures are governed by UWS 6.01 and UWM 5.45 - 5.47.

V. REQUEST TO REFER, MODIFY, REJECT OR APPEAL

For faculty appeal process see UWS 6.01 and UWM Policies and Procedures 5.45 - 5.47.
In all non faculty related cases within 10 working days from receipt of the assistant chancellor's findings, conclusions and recommendations, the complainant, any person who may be disciplined, and the dean or the division head may request that the chancellor (1) refer the case to the appropriate governance committee for findings and recommendations, (2) reject or (3) modify the findings, conclusions and recommendations of the assistant chancellor for Diversity/Compliance. The request(s) must be in writing and must be sent to the chancellor. A copy of the request must be sent to the assistant chancellor for Diversity/Compliance and to all other persons who were served a copy of the assistant chancellor's findings, conclusions and recommendations.

The request to refer, modify or reject shall be limited to whether (1) the documentation and statements of record support the conclusion(s) of the assistant chancellor for Diversity/Compliance and (2) the recommended remedial action is appropriate. The 10 day period begins to run on the first working day following receipt, if the findings were hand-delivered. If the findings were received via U.S. mail or campus mail, add three days to the date the assistant chancellor signed the findings. The appeal must be in writing and post-marked or hand-delivered on or before the 10th working day from receipt of the findings. The original appeal should be sent directly to the chancellor and a copy of the appeal should be sent to each person listed as having received a copy of the findings.

The chancellor has 20 working days from the receipt of the original findings, conclusions and recommendations, to accept, reject, modify or refer the findings. In the case of referral to a governance hearing body, the chancellor's decision will be withheld until the hearing body has completed their findings and made recommendations to the chancellor.

Remedies

Depending on the nature of the complaint and whether or not the respondent has been warned or disciplined in the past, the recommended sanctions for violation of this policy may include but are not limited to verbal or written reprimand, suspension and dismissal. The recommended disciplinary action for repeated acts of discrimination will become progressively more severe and may lead to dismissal. This provision does not, however, preclude the assistant chancellor for Diversity/Compliance from recommending a severe sanction for a first offense if justified by the circumstances.

VI. CHANCELLOR'S DECISION

The chancellor will make a decision on the assistant chancellor's findings, conclusions and recommendations in no more than 20 working days from receipt, except in such circumstances where a mutually agreed upon settlement is reached. A copy or notice of the chancellor's disposition shall be sent to the assistant chancellor for Diversity/Compliance and to all other persons who were served a copy of the assistant chancellor's findings, conclusions and recommendations.

A. Faculty

(1) For allegations not serious enough to warrant dismissal, the chancellor has the authority under
UWS 6.01(1), Wis. Admin. Code to (1) dismiss the complaint, (2) invoke the appropriate disciplinary action, or (3) refer the complaint to the Faculty Rights and Responsibilities Committee.

(a) Except in the case of exigent (#6) circumstances calling for immediate action; the chancellor may invoke an appropriate disciplinary action, after affording the faculty member concerned an opportunity to present evidence and arguments concerning the allegations and informing the faculty member of his/her rights to appeal to the Faculty Rights and Responsibilities Committee, UWM Policies and Procedures 5.45 - 5.47;

(b) If the chancellor refers the complaint to the Faculty Rights and Responsibilities Committee, the provision of UWS 5.40 -5.47, UWM Policies and Procedures shall apply, in accordance with UWS 6.01(4), Wis. Admin. Code.

(c) The decision by the chancellor on the recommendations of a faculty committee 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 [UWS 6.01(5), Wis. Admin. Code].

(2) If the chancellor believes that the conclusions and findings of the assistant chancellor for Diversity/Compliance warrant dismissal of the faculty member, the procedures under Chapter UWS 4, "Procedures for Dismissal," Wis. Admin. Code, and UWS 5.21 -5.29, UWM Policies and Procedures, shall be followed.

B. Academic Staff

(1) For allegations not serious enough to warrant dismissal, the chancellor may accept, reject, or modify the findings, conclusions and recommendations of the assistant chancellor for Diversity/Compliance. In the event the chancellor invokes disciplinary action against an Academic Staff Member (ASM), that staff member is entitled to request a review by his/her peers as outlined in the UWS 13.01, Wis. Admin. Code, and Chapter 111, "Complaints," UWM Academic Staff Personnel Policies and Procedures. The ASM will remain in pay status throughout the Hearing and Appeals Committee investigation.

The Hearing and Appeals Committee shall make recommendations to the chancellor. The decision of the chancellor is final.

(2) If the chancellor believes that the conclusion and findings of the assistant chancellor for Diversity/Compliance warrant dismissal, the procedures of Chapter UWS 11, "Dismissal of Academic Staff for Cause," and Chapter 109, "Dismissal for Cause," UWM Academic Staff Personnel Policies and Procedures, will apply.

C. Limited Appointments

Termination of a limited appointment is governed by s. UWS 15.01 and is not a "dismissal" under Ch. UWS 4 and 11, Wis. Admin. Code. If an individual is dismissed, the dismissal would include termination of the individual's backup position.
D. Classified Staff, Graduate Assistants, and Student Employees

The chancellor or the chancellor's designee shall at all times retain the authority delegated by Chapter 36, Wis. Stats. In imposing appropriate disciplinary action, the chancellor of the chancellor's designee will act in accordance with the Rules of the Secretary of the Department of Employment Relations, Division of Merit Recruitment and Selection, UWM policies and contractual agreements relative to classified and graduate assistant staff.

VII. CONSENSUAL RELATIONSHIPS WITHIN THE UNIVERSITY COMMUNITY

A. Purpose of the Policy

UWM acknowledges its responsibility to provide clear direction to the university community about the professional risks associated with consensual amorous and/or sexual relationships in which a definite power differential between the parties exists. In as much as UWM is committed to fostering the development of learning and work environments characterized by professional and ethical behavior and free of discriminatory behavior, it discourages consensual amorous and/or sexual relationships in which there is a power differential, e.g. between instructor and student or supervisor and employee. UWM recognizes that it cannot regulate such personal decisions but views them with concern for two reasons:

(1) Abuse of Power: Individuals entering into consensual amorous and/or sexual relationships involving a power differential must recognize that: (i) the reasons for entering such a relationship may be a function of the power differential; (ii) where power differentials exist, even in seemingly consensual relationships, consent shall not be considered a defense if a complaint of sexual harassment or retaliation is brought; and (iii) the individual in the relationship with greater power will bear the burden of accountability.

(2) Conflict of Interest: Conflicts of interest may arise in connection with consensual amorous and/or sexual relationships between faculty or other instructional staff and students, or between supervisors and subordinates. University policy and more general ethical principles preclude individuals from evaluating the work or academic performance of those with whom they have familial relationships, or from making hiring, salary or similar decisions that have a financial impact on such persons. The same principles apply to consensual amorous and/or sexual relationships and require that appropriate alternate arrangements be made for objective decision-making with regard to the student, subordinate or prospective employee.

B. Reporting Requirements

UWM recognizes that the conflict of interest inherent in a consensual amorous and/or sexual relationship where there is a power differential affects the university's obligation to provide equal employment and educational opportunity. Therefore, UWM requires:

(1) That participants in such a relationship act immediately to remove the conflict of interest;

(2) That the person in the more powerful position in such a relationship report it to the dean or division head to ensure that all such conflicts of interest have been adequately addressed and to
generate a written acknowledgment that alternate arrangements for the evaluation of the less powerful person in the relationship have been made;

(3) That a record of such reports be maintained by the unit and a copy provided to the Office of Diversity/Compliance;

(4) That those records be confidential but available as evidence in the processing of possible related sexual harassment complaints in the future.

VIII. UNIVERSITY LEGAL COUNSEL

If the assistant chancellor for Diversity/Compliance finds that the UWM employee(s) violated this policy and if litigation ensues, UWM legal counsel may, following review of the determination, recommend that the employee(s) alleged to have violated the policy not be afforded legal representation by the Wisconsin Department of Justice.

IX. IMPLEMENTATION AND EVALUATION OF THE UWM DISCRIMINATORY CONDUCT POLICY

A. Publicity/Education

All students, faculty, academic staff and other employees will be informed of campus policy and procedures regarding discriminatory conduct, including sexual harassment. Deans, division heads, and department chairs, with the assistance of the Office of Diversity/Compliance, share the duty of coordinating and supporting these activities.

B. Evaluation

Proposed revisions to these policies and procedures shall be submitted to the assistant chancellor for Diversity/Compliance for review prior to consideration by the chancellor, the University Committee and the Academic Staff Committee.

#1 The 1995 AAUP Policies, Documents and Reports section on Sexual Harassment affirms its statement of ethics which states in part that "any exploitation of students for ...private advantage" is unacceptable. Additionally, the Statement on Freedoms and Responsibility states that "intimidation and harassment" are inconsistent with the maintenance of academic freedom on campus. The unprofessional treatment of students and colleagues assuredly extends to sexual discrimination and sexual harassment, as well as to other forms of policy on discrimination and sexual harassment. Finally, the AAUP states that "the school should also make clear that sexual harassment and attempted sexual duress are included under the heading of unprofessional conduct threatening the academic freedom of others."

#2 See also UWM Selected Administrative Policies No. S-44, Public Expression of Opinion.

#3 Code of Federal Regulations - Education 34 CFRs 106.8 and 110.25 and Code of Federal
Regulations Title 29 - Labor, 29 CFRs 32.45 mandate in adopting grievance procedures, a recipient must adopt procedures which provide prompt and equitable resolution.

#4 Wisconsin Open Records Law

#5 FERPA and ADA

#6 An event of occasional combination of circumstances calling for immediate action or remedy.