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Legal Update for Community Colleges

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The **Legal Update for Community Colleges** is a monthly update of selected significant court cases pertaining to post-secondary institutions. It is written by Johnny R. Purvis for the **Safe, Orderly, and Productive School Institute** located in the Department of Leadership Studies at the University of Central Arkansas. If you have any questions or comments about these cases and their potential ramifications, please phone Purvis at **501-450-5258**. In addition, feel free to contact Purvis regarding educational legal concerns; school safety and security issues; crisis management; student discipline/management issues; and concerns pertaining to gangs, cults, and alternative beliefs.

Topics:

- Security
- Student Discipline

Topics

Security:

“Officer Employed by State University Was Acting Under the Color of State Law During Search and Arrest”

Davis v. Baclgalupi (E.D. Va., 711 F. Supp. 2d 609), April 29, 2010.

Plaintiff filed suit against university police officer, alleging the search of her residence and arrest violated her rights under the Fourth Amendment and Virginia law. The 24-year-old woman was arrested on felony charges after a search of her residence that she shared with her parents’ yielded evidence that she was involved in the stealing of certain electronic equipment from the campus of George Mason University (GMU). A check (\$2,000.00) related to a Baltimore pawn shop was endorsed and deposited by the plaintiff at the Virginia Credit Union. Furthermore the police confiscated a jump drive, two computers, and assorted papers during the search of the plaintiff’s residence. By the way, the plaintiff claimed that the check was from a former roommate (The former roommate and two other suspects were photographed and videotaped committing the crime.) and pertained to rent money owed her by the former roommate. The plaintiff brought suit against the university police officer alleging the search of her residence and arrest violated her rights under the Fourth Amendment and Virginia law. A United States District Court in Virginia held that (1) officer **was acting** “under the color of state law” in his official capacity during all times relevant to the search of the plaintiff’s residence and arrest, (2) plaintiff **failed** to state an unlawful arrest claim against officer under the Fourth Amendment, (3) plaintiff **failed** to state an excessive force claim, and (4) plaintiff **failed** to state malicious prosecution claim against officer under Virginia law.

Student Discipline:

“Medical Student Not Denied Due Process for Being Expelled for Stealing Money From His Class’s Checking Account”

Korte v. Curators of University of Missouri (Mo. App. W.D., 316 S. W. 3d 481), August 31, 2010.

University medical student expelled for misappropriating funds from class checking account was **not** denied due process due to the fact that he received notice and multiple opportunities to be heard. The plaintiff **failed** to identify any internal policies and related administrative procedures that were allegedly violated; plus, plaintiff’s allegations that the university’s proceedings were a sham **were unsupported** by any valid evidence. **Note:** In 2007, plaintiff was a student in good standing at the University’s School of Medicine when it was alleged that he violated the University’s Honor Code. While the plaintiff was the class treasurer for the School of Medicine, he misappropriated funds from the class checking account. He wrote two checks for a total amount of \$3,500.00 that he placed into his own checking account and spent for his personal benefit. In addition, he attempted to withdraw an additional \$2,000.00 of the account but was unsuccessful because the class checking account had insufficient funds.

Books of Possible Interest: Two recent books published by Purvis –

1. Leadership: Lessons From the Coyote, www.authorhouse.com
2. Safe and Successful Schools: A Compendium for the New Millennium-Essential Strategies for Preventing, Responding, and Managing Student Discipline, www.authorhouse.com

Note: Johnny R. Purvis is currently a professor in the Department of Leadership Studies at the University of Central Arkansas. He retired (30.5 years) as a professor, Director of the Education Service Center, Executive Director of the Southern Education Consortium, and Director of the Mississippi Safe School Center at the University of Southern Mississippi. Additionally, he serves as a law enforcement officer in both Arkansas and Mississippi. He can be reached at the following **phone numbers:** 501-450-5258 (office) and 601-310-4559 (cell)