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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:

- Civil Rights
- Student Discipline
- Torts

Topics

Civil Rights:

“Student Organization Not Entitled to Injunctive Relief for Denial of Student Fees”

Collegians for a Constructive Tomorrow-Madison v. Regents of University of Wisconsin System (W. D. Wis., 698 F. Supp. 2d 1058), March 9, 2010.

Conservative student organization *had only a small chance of success on the merits of its claim* that the university regents, chancellor, and members of the student government violated its members’ First Amendment rights by denying it equal access to university’s student activity fee forum on the basis of its viewpoint. Therefore, **preliminary injunctive relief is denied** as so pertaining to organization’s eligibility to receive student activity fees for the current academic school year. Although a progressive student organization had received student activity fees for the current academic year, the student government *had reasonably concluded* that, unlike that organization, the conservative organization had *not* timely turned in a complete application as so pertaining to their eligibility for student activity fees.

Student Discipline:

“University Had a Legitimate Reason for Expelling Student”

Shelton v. Trustees of Columbia University (C. A. 2 [N.Y.], 369 Fed. App. 200), March 10, 2010.

University **had legitimate reason** for black male student’s exclusion of school attendance due to the fact that the plaintiff’s expulsion was based on plagiarism. The student’s exclusion for school attendance was **not** a pretext for race discrimination or a retaliatory dismissal under Title IX as so associated with being arbitrary and capricious.

Torts:

“Action against University Pertaining to Student’s Drowning Death Was Barred Due to the Exception to the Waiver of Sovereign Immunity”

Texas State University-San Marcos v. Bonnin (Tex. App.-Austin, 315 S. W. 3d 58), December 18, 2008.

Discretionary-acts exception to waiver of sovereign immunity applied to claims of negligent use of real and personal property and defective condition of real and personal property, as asserted against state university by father of student who drowned after he jumped into waterway on university campus and was allegedly pulled by turbulent undertow into under water caverns. **Note:** The student drowned on April 21, 2005, after jumping from the balcony of a restaurant where he worked into the waterway at Spring Lake Dam on the university campus. The plaintiff alleged that the defendant created an unreasonably dangerous condition by making repairs to the waterway where the incident occurred and failing to block access to the underwater caverns or warn others of their existence.

“Student Could Not Sustain Intentional Infliction of Emotional Distress Claim against Newspaper”

Collins v. Purdue University (N. D. Ind., 703 F. Supp. 2d 862), March 24, 2010.

Former university student brought action against university, university’s police department, police officers, and newspapers, among others, alleging claims for the intentional infliction of emotional distress, defamation, and false-light invasion of privacy arising from a newspaper’s publishing of an article, both in print and on an interactive website, regarding criminal charges pending against the plaintiff. A United States District Court in Indiana held that (1) factually correct statement in newspaper article could **not** be deemed as outrageous, for purposes associated with the intentional infliction of emotional distress; (2) newspaper did **not** intend to emotionally harm the plaintiff when it published article, as would support the intentional infliction of emotional distress claim; (3) newspaper’s publishing of article on its website and inviting readers’ comments was **not** outrageous, as would support the intentional infliction of emotional distress claim; (4) article was **not** false, as would support defamation and false-light invasion of privacy claims; and (5) newspaper **was immune** from liability for allegedly defamatory third-party posting on its website.

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)