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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:

- Disabled Students
- Labor and Employment
- Student Discipline

Topics

Disabled Students:

“Student Could Not Have Support Person Present During an Examination of Her Mental Condition”

Newman v. San Joaquin Delta Community College Dist. (E.D. Cal., 272 F.R.D. 505), February 15, 2011.

Student was not permitted to have a “support person” in the examination room during psychological and neuropsychological tests conducted by community college district’s examiner upon student, whose mental condition was in controversy in her ADA legal action arising from her alleged assault by college police officer, but would be permitted to have a “support person” nearby during the examination. Furthermore, she and the “support person” could visit during breaks. The denial of a “support person,” along with the compromise, was necessary to preserve the integrity of the mental examination process while permitting the security for the student, who did argue that the examination might be psychologically painful for her. **Note:** The plaintiff suffers from post-traumatic stress disorder and spinal damage and disease. Her “medic-alert bracelet” states in part: “diabetic, epileptic, gabapentin, high blood pressure, psychotic disorder....” The student suffered an anxiety attack and an instructor took her to a private room where she began to knock items off a desk; thereupon the police were called. The plaintiff alleged that the two officers who responded attacked her and used unnecessary and unreasonable force in detaining and restraining her.

Labor and Employment:

“Evidence was Insufficient to establish that Employee Injured Himself While in the Course and Scope of His Employment”

Penn State University v. W.C.A.B. (Smith) (Pa. Cmwlth., 15 A. 3d 949), February 22, 2011.

Evidence **was insufficient** to establish workers’ compensation when claimant (food service cook and housekeeper) injured himself while in the course and scope of his employment. Claimant broke both of his ankles when he jumped down a flight of stairs while on his lunch break. **Note:** The claimant had taken his one-half (1/2) hour unpaid lunch break at an on campus dining facility. While walking to the school dining facility, he intentionally jumped down the second flight of stairs of approximately 12 steps.

Student Discipline:

“Student Handbook Constituted a Valid, Written Contract between Student and University”

Barnes v. Zaccari (N.D. Ga., 757 F. Supp. 2d 1313), September 3, 2010.

Under Georgia law, a student handbook provided to a student upon enrollment at a state university, **constituted a valid, written contract** between the student and the university’s Board of Regents. Therefore, the state university’s Board of Regents (student attended Valdosta State University) **breached the contract** with the plaintiff student when it *failed* to provide the student with a notice of the charge that he was a “clear and present danger” prior to the president deciding to withdraw him from the university. Thus, the student *was denied* any opportunity to address the “clear and present danger” charge at a hearing as required by the university’s student handbook. **Note:** The removal of the student from the university began with his initiative to raise public awareness regarding the issue of constructing a parking garage on campus and its potential environmental impact; plus eventually the plaintiff’s alleged threats to the university president. An another note, officials concluded that the plaintiff student exhibited grandiose thinking, narcissism at times, manic behavior at times, the tendency to become obsessed with situations, and being paranoid at times.

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)