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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:

- Labor and Employment
- Security

Topics

Labor and Employment:

“University Proffered Legitimate Reasons for Terminating African-American Employee were Not Pretext for Race Discrimination”

Cyprian v. Auburn University Montgomery (M. D. Ala., 799 F. Supp. 2d 1262), July 1, 2011.

There was no causal link between African-American state university employee’s dismissal and her internal complaints of racial harassment as would support her prima facie case of retaliation under Title VII. **Note:** The plaintiff was employed as the Dean of Student Affairs until Auburn University at Montgomery until her termination on June 3, 2009, which focused on making unauthorized changes to documents, not accomplished annual goals, and difficulty working cooperatively with other people.

“Though He Spoke as a Public Citizen – State University Professor Failed to Show Retaliation for His Exercise of Free Speech”

Sadid v. Idaho State University (Idaho, 265 P. 3d 1144), November 30, 2011.

Tenured professor at state university spoke as a private citizen, rather than as a public employee, in his letters to local newspapers criticizing his former university’s administration. The plaintiff alleged retaliation by the university’s administration for his exercise of his free expression rights, although he identified himself in his comments as a public employee and spoke about issues related to his employment based on information obtained in his employment. The professor’s official duties did not include making public statements on behalf of the university regarding the subject matter of his letters **nor** did they include creating the statements published in the newspaper. **Note:** The professor’s alleged retaliation claim against his critical comments in a local newspaper about the university’s alleged retaliation against him included the failure of the dean to conduct an annual evaluation, the hiring of another person as Chair of the Department of Engineering rather than the plaintiff, increasing the salary of the plaintiff at the lowest percentages, and a defendant in the suit sending an e-mail to a third party in which he referred to the plaintiff as “a nut-case who cannot help himself.”

Security:

“Rule Prohibiting the Possession of Firearms on University Property was permitted by State Statute”

Oregon Firearms Educational Foundation v. Board of Higher Educ. (Or. App., 264 P.3d 160), September 28, 2011.

Oregon Firearms Educational Foundation brought legal action against the Board of Higher Education and the Oregon University System challenging its administrative rule that sanctioned persons possessing firearms on state university property. The Oregon Court of Appeals held that the administrative rule that allowed for sanctioning persons who possessed firearms on state university property was **not consistent with state statute** that provided an exception to state statute that criminalized the possession of a firearm in a public building for those persons licensed to carry a concealed handgun. The statutory exception did **not** speak to the State Board of Higher Education’s authority to adopt a policy to exclude handguns from its institutional facilities and properties.

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)

