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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
- Labor and Employment

Topics

Civil Rights:

“Private College Did Not Violate Plaintiff’s Free Speech Rights by Excluding Her From a Public Lecture”

Roman v. Trustees of Tufts College (Mass., 964 N. E. 2d 331), March 21, 2012.

Plaintiff was a veterinarian with a private practice that combined conventional veterinary medicine with alternative treatments such as holistic medicine, homeopathy, and herbal remedies. The plaintiff discovered a small lesion on her horse’s eyelid and she treated it with a variety of alternative therapies; however, the entire eye became painful and infected. Thereupon, she took her horse to Tufts to be treated by a veterinary ophthalmologist and he diagnosed the horse’s lesion as an invasive squamous cell carcinoma that had metastasized. After the diagnoses, the ophthalmologist discussed the possibility of palliative euthanasia due to the condition of the horse and the quality of care that the horse had received and whether the previous treatment had fallen below acceptable standards of veterinary care. The plaintiff rejected the ophthalmologist recommendation and removed her horse from the hospital. During the months following the incident, the plaintiff refused to pay Tufts for the services rendered to her horse. Finally, she received a letter informing her that until the debt was resolved she would be unable to obtain medical or other services through the school. On May 17, 2005, she attempted to attend a continuing education program entitled the “Dangers of Feeding Your Pet a Raw Diet;” however while standing outside of the lecture hall she was told that “you can’t come in here and if you do come in here, we will have you arrested.” After the confrontation, she left the campus. The Supreme Judicial Court of Massachusetts, Worcester, held that the college’s exclusion of the plaintiff from the lecture **was reasonable and viewpoint neutral** as so pertaining to the First Amendment.

Labor and Employment:

“University Employee Complaint to a Supervisor was Not a Protected Activity Under Title II”

Boese v. Fort Hays State University (C. A. 10 [Kan.], 462 Fed. App. 797), February 9, 2012.

The plaintiff, a custodial specialist, complained to the University’s Director of Human Resources that her supervisor consistently showed favoritism toward promoting male custodial specialist to supervisory positions associated with custodial services within the university. On February 13, 2008, the plaintiff was one of 14 applicants for a supervisory position in one of the university’s residence facilities; she did not get the job. On August 27, 2008, her supervisor gave her a written warning after she complained about his job performance, training, and fairness. On March 9, 2009, her supervisor gave her a satisfactory performance rating, she appealed, and the rating was changed to exceptional. On April 27, 2009, the plaintiff was transferred to a different residence hall. On September 30, 2009, she received another satisfactory rating, she appealed, and it was changed to exceptional. Soon thereafter she filed a complaint alleging that the university actions amounted to gender discrimination and retaliation under Title VII. The United States Court of Appeals, Tenth Circuit, concluded that the plaintiff **failed** to demonstrate a causal connection between her allegedly protected activity and any adverse employment action.

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. In addition, he serves as a law enforcement officer. He can be reached at the following **phone numbers:** 501-450-5258 (office) and 601-310-4559 (cell)