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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
- Universities

Topics

Civil Rights:

“Genuine Issue of Material Fact Existed as to whether the Use of Force against Students was Reasonable”

Newman v. San Joaquin Delta Community College Dist. (E. D. Cal., 814 F. Supp. 2d 967), August 31, 2011.

Genuine issue of material fact **existed** as to whether college police officers engaged in extreme and outrageous conduct during an incident with husband and wife students, **precluding summary judgment** for defendant in students’ intentional infliction of emotional distress claim under California law. Also, genuine issue of material fact **existed** as to whether the college was deliberately indifferent in failing to train college police on how to deal with mentally ill people. **Note:** Plaintiffs Shirley Newman and Anthony Butler were students at a community college and had lived together for a number of years. While attending classes in separate classrooms, Newman, a 43-year-old with a history of mental illness begun to suffer an anxiety attack and sought Butler for comfort. An instructor in Butler’s classroom called campus police and told them that Newman stated that she was going to hurt someone. The dispatcher told the responding police officers that the “wife” was upset and crying and on the “verge of being violent towards her husband.” According to the plaintiffs, they were walking quietly and calmly to the classroom door as they held each other when the police arrived. Butler complied with the officer’s orders to come with him, but was slammed to the floor and dragged into the hallway. The other responding officer pulled Newman through the classroom door and slammed her against the hallway wall three times, while using racially derogatory language.

“State University Professor was Not Entitled to Qualified Immunity on Student’s Sexual Harassment Equal Protection Claim”

Chestang v. Alcorn State University (S. D. Miss., 820 F. Supp. 2d 772), May 17, 2011.

Male professor at a state university was **not** entitled to qualified immunity as to a male student’s due process and equal protection claim (Fourteenth Amendment) that a professor violated his rights under the equal protection clause by sexually harassing him due to the fact that the plaintiff had to right to be free from sexual harassment. **Note:** The student stated that the professor sexually harassed him by making suggestive comments and rubbing against him.

Student Discipline:

“University did Not Breach Contractual Provision in Student Handbook”

Anderson v. Vanderbilt University (C. A. 6 [Tenn.], 450 Fed. App. 500), December 8, 2011.

Under Tennessee law, a university did **not** breach its contractual provision in its student handbook requiring clear and convincing proof of a student’s guilt for expulsion by expelling an undergraduate student for cheating on an exam. The evidence showed that the student’s answers were almost identical to another student’s and the similarities were *not* adequately explained by the student. **Note:** The plaintiff answered just one of the fifteen test questions on a Physics laboratory class exam correctly and thirteen of his answers were the same as those of a student sitting next to him, who was taking a different version of the test.

Universities:

“State’s Concealed Carry Act (CCA) Divested State University of Its Authority to Regulate Concealed Handgun Possession on Campus”

Regents of University of Colorado v. Students for Concealed Carry on Campus (Colo., 271 P. 3 496), March 5, 2012.

Concealed Carry Act (CCA) **divested** state university of its authority to regulate concealed handgun possession on campus. The CCA **had comprehensive statewide purpose**, and achieved its intent to bring about “state-wide uniform standards” through its substantive provisions. Furthermore, the CCA exclusions **were narrow** and did **not** include public universities.

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)