

May - June 2011 (618 & 619)

## **Legal Update for Community Colleges**

**May - June 2011**

**Johnny R. Purvis\***

### **West's Education Law Reporter**

February 4, 2010 – Vol. 251 No. 1 (Pages 1 – 500)

February 18, 2010 – Vol. 251 No. 2 (Pages 501 – 987)

Terry James, Chair, Department of Leadership Studies, University of Central Arkansas

S. Ryan Niemeyer, Editor, Director, University of Mississippi – Grenada and Assistant  
Professor, Leadership and Counselor Education

Shelly Albritton, Technology Coordinator, Department of Leadership Studies, University of  
Central Arkansas

Wendy Rickman, Assistant Professor, Department of Leadership Studies, University of Central  
Arkansas

### **Safe, Orderly, and Productive School Institute**

Department of Leadership Studies

University of Central Arkansas

201 Donaghey Avenue

230 Mashburn

Conway, AR 72035

\*Phone: 501-450-5258 (office)

\*E-mail: [jpurvis@uca.edu](mailto:jpurvis@uca.edu)

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
- Student Discipline

## Topics

### Labor and Employment:

#### **“University Employee Did Not Establish a Causal Relationship between Her Protected Activity and Non-Renewal”**

Schechter v. Georgia State University (C. A. 11 [Ga.], 341 Fed. App. 560), August 12, 2009.

Former state university employee did **not** establish a causal relationship between her protected activity and the non-renewal of her contract. Therefore, the plaintiff **failed** to establish a prima facie case of retaliation under Title VII, where university had renewed her contract with “serious reservations” before her gender discrimination complaint. There was a five-month gap between her complaint and her negative evaluation on which her non-renewal was based. **Note:** The plaintiff alleged gender discrimination, disparate treatment, and a hostile work environment, which lead to her filing a grievance complaint.

### Security:

#### **“University Entitled to Charitable Immunity in Death of Student Who Fell To His Death”**

Orzech v. Fairleigh Dickinson University (N. J. Super. A. D., 985 A. 2d 189), December 29, 2009.

Student’s conduct in violating university’s alcohol policy by holding a party in his dormitory in which alcohol was served to minors did **not** alter student’s status as a beneficiary of the university, and thus the university **was entitled** to charitable immunity in family’s wrongful death claim against the university after the student fell out of a dormitory window while intoxicated and died. **Note:** Plaintiff’s son (Keith Orzech – 21 years old) completed the 2004-2005 school term at Fairleigh Dickinson University and was enrolled for the upcoming 2005-2006 school term. During the summer of 2005, although not taking classes, he remained on campus as a RA in a residence hall. On June 30, 2005, Orzech purchased alcohol and had a party in his dorm suite, along with somewhere between 10 – 12 invited guests. Plaintiff’s son became extremely intoxicated and was put to bed between 2:00 a.m. and 2:30 a.m. The county prosecutor’s office determined that sometime between 4:20 a.m. and 9:00 a.m. Orzech must have gotten up, leaned out his window, and accidentally fell to his death. It was also determined that the student’s blood alcohol content at the time of his death was 0.166%.

Student Discipline:

**“Student Legally Expelled for Plagiarism”**

Dequito v. New School for General Studies (N. Y. A. D. 1 Dept., 890 N. Y. S. 2d 56), December 17, 2009.

University **substantially complied** with its published guidelines in expelling student for plagiarism and plaintiff **received adequate notice** of ad hoc committee’s hearing and **a meaningful opportunity** to be heard. Furthermore, there was **no** indication that the university’s guidelines prohibited the professor who reported student’s plagiarism from serving on the ad hoc committee. **Note:** The plaintiff was repeatedly advised to remove plagiarized portions from her various drafts of her master’s thesis.

**Books of Possible Interest:** Two recent books published by Purvis –

1. Leadership: Lessons From the Coyote, [www.authorhouse.com](http://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](http://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)