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Legal Update for Community Colleges

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Johnny R. Purvis*

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Terry James, Chair, Department of Leadership Studies, University of Central Arkansas
S. Ryan Niemeyer, Editor, Co-Director, Mississippi Teacher Corps and Assistant Professor,
Leadership and Counselor Education, University of Mississippi
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

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:

- Free Speech
- Labor and Employment
- Torts

Topics

Free Speech:

“Prohibiting Students from Wearing Empty Holsters in Classrooms and Corridors Violated Students’ First Amendment Rights”

Smith v. Tarrant County College Dist. (N. D. Tex., 694 F. Supp. 2d 610), March 15, 2011.

Community college’s policy prohibiting students from protesting (“empty-holster protests”) the status of the law and school policy on “concealed firearms” by wearing empty holsters in classrooms and hallways **was unconstitutional** as applied to students in violation of free speech provision of the First Amendment of the United States Constitution. The justification for the rule that a disruption to classroom activities might be caused by either students’ immediate reaction to the empty holsters or to the police response to reports of firearms on campus caused by the empty holsters, could **not** be supported by mere undifferentiated apprehension of a disturbance.

Labor and Employment:

“Professor’s Racially-Charged Website and E-Mails Were Pure Speech and Not Unlawful Harassment”

Rodriguez v. Maricopa County Community College Dist. (C. A. 9 [Ariz], 605 F. 3d 703), May 20, 2010.

Community college professor’s racially-charged website and e-mails sent over a distribution list maintained by his community college district, which questioned why the district was endorsing a Hispanic celebration asked readers to “celebrate the superiority of Western Civilization”, along with declaring that “the only immigration reform imperative is the preservation of the White majority.” The United States Court of Appeals, Ninth Circuit, declared that the professor’s remarks **constituted pure speech and was not unlawful harassment**; thus, the district’s refusal to discipline or dismiss the professor under the district’s anti-harassment policy did **not** violate Hispanic employees’ equal protection right to be free from unlawful workplace harassment.

Torts:

“University could be Liable for Danger Posed by Portable Ramp to its Commissary”

Page v. State (N. Y. A. D. 3 Dept., 902 N. Y. S. 2d 199), April 29, 2010.

Genuine issue of material fact **existed** as to whether portable ramp placed over stairs for deliveries to the state university’s commissary violated regulations governing the means of egress; thus, **precluding summary judgment** for the university in commissary worker’s action against state and university. The plaintiff was seeking damages for personal injuries she sustained when she tripped on the ramp and fell while exiting the commissary. **Note:** As documented by a security video recording, plaintiff exited the building onto a loading dock, crossed the dock at an angle to her right and, as she stepped onto the left side of a 30-inch by 10-foot portable ramp leading to the pavement below, her left foot caught on a three-inch curb on the side of the ramp. With her hands full, she lost her balance, stumbled down the ramp and fell at its bottom. The ramp, which had been in use for approximately 10 years, was intended to cover the underlying stairs when used for deliveries or raised and secured on its side by an attachment to a hook installed in the wall of the building.

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)