

STUDENT AFFAIRS TODAY

News and Strategies for Higher Education Professionals

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SNAPSHOTS

BRIEFS

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COVER STORY

Help students improve chances of success by tackling debt, money struggles

The average college graduate today can expect to enter a tight job market weighed down by at least \$25,000 in student loan and credit card debt combined, according to the latest estimates. Unlike past years, more families don't have the resources to help college students pay for tuition or other bills or to support college graduates until they find a job.

Such grim statistics and tough times mean institutions face increasing problems with retention and overall student success, experts say. Some vulnerable students may even struggle with increased mental health issues.

But student affairs professionals can play a critical role in helping students learn how to manage their money, including their debt, and still have a positive college experience. Inside, learn practical steps you can take to address, and even prevent, many of the money-related struggles facing your students. **Full story, pages 4-5.**

Follow checklist to help

Check out our experts' checklist of steps you can take to address money management issues with your students. **See page 5.**

HIGHLIGHTS

Managing Your Office

Are you planning on retiring anytime soon? Learn a process for preparing the next generation of student affairs leaders to take over when you leave. **Page 3**

Campus bike share programs offer solution to parking, traffic, environmental concerns

Find out how to launch a bike share or rental program on your campus for little money, while solving problems and even generating money. **Pages 6-7**

Get advice about growing Internet misuse, mental health issues

Tamara King, judicial programs director and new president of ASJA, discusses new challenges facing judicial affairs officers. She provides insight and offers practical advice for dealing with legal, ethical issues. **Page 12**

New FERPA changes now in effect

Make sure you understand the changes approved to the FERPA regulations. The Department of Education published final rules on Dec. 9, 2008.

Although many of the rules reflect interpretations the Family Policy Compliance Office has previously provided about FERPA in letters it issued, these are the most major updates to this privacy law in two decades. The changes, now in effect, include revising the definition of personally identifiable information and amending the recordkeeping requirements for threat-related disclosures.

To review the rules, go to <http://edocket.access.gpo.gov:80/2008/E8-28864.htm>. ■

MBTI can help match roommates

If you are looking for a way to reduce roommate mismatches, you might want to consider personality testing. Some small liberal arts colleges now use the Myers-Briggs Type Indicator for roommate matching or conflict resolution between roommates.

And Champlain College, in

Burlington, Vt., requires incoming students to take the MBTI, a personality assessment, reports *InsideHigherEd.com*.

More than 70 percent of U.S. colleges and universities use personality assessments, but most often for career counseling, according to CPP, the publisher of MBTI in the United States. ■

College grads outpace dropouts in unemployment

With the dismal economy, some students may question the value of earning a degree. In fact, the number of unemployed college graduates seeking work has hit an all-time high, and it's even more than the number of high-school dropouts looking for jobs.

However, you can tell students

that nearly 97 percent of college grads have jobs, according to *cnnmoney.com*. About 1.2 million high school dropouts remained unemployed in November 2008 but unemployed college grads rose to more than 1.4 million, according to the Bureau of Labor Statistics. ■

College bookstores' textbook prices climbing

Are your campus bookstore's profits decreasing? Some students have started selling books directly to each other on craigslist-type Web sites, rather than sell them back to bookstores.

College students spend almost \$1,000 a year on textbooks, with some book prices having quadrupled in the past 20 years, reports the *baltimoresun.com*. ■

ASSESSMENT ADVICE

Make surveys more effective for assessment

Q How can we make better use of surveys and survey results in our assessment process?

A Provide your managers with an action plan to follow, including the purpose, rationale, and objectives of each survey as well as the benefits of feedback.

Assessment Advice is a monthly Q & A column that offers tips to help you evaluate your programs and services. Do you have a question and/or answer to submit? E-mail the editor at cmccarthy@wiley.com ■

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Prepare next generation of student affairs leaders

If you were to leave your institution tomorrow, would someone within student affairs be prepared to step up and take charge?

If not, your college could be left scrambling to find an appropriate replacement. Experts predict a shortage of qualified higher education administrators, and veteran employees — i.e., department chairs and unit leaders — that will only grow worse.

That is why it's so important for student affairs leaders, ranging from deans and vice presidents to supervisors and managers, to groom their second-in-command for their posts right now.

Peggy Terhune, executive director of an Albemarle, N.C., nonprofit, used the following process to prepare her assistant to lead the organization upon her exit:

Establish interest. Make sure the person you're eyeing as a future candidate actually wants the position. Otherwise, training is a waste of time. If she doesn't want the post, choose from other talented individuals in your office.

Provide experience. Terhune's assistant attended statewide meetings that she regularly attends as director. "We discussed what type of information and experiences he would need to succeed in the position," she said. "He attended meetings with me, and then we would discuss what happened and what it meant. Now he attends these events in my place."

Use teachable moments. If Terhune and her assistant attend a staff meeting and she realizes he doesn't understand something, she will stop and explain for the group. That way, he gets the back-

ground information he needs to see the significance of the situation or issue.

Employ the "no dumb questions" rule. "When he asks me a question, I go into more detail [than with others] with the explanation," she said. The added detail provides a supervisor's perspective and includes the history of an issue. Terhune explains her thought process in making a decision and tells her assistant what alternatives she considered and rejected.

Use the "If he asks, he answers first" technique. "When my assistant asks a question, I let him tell me the answer and then we walk through it together," Terhune said. The point: Don't tell him what to do. Instead, make sure your assistant understands all aspects of each decision, including the impact on the people the unit serves.

Demonstrate that you support the decisions of senior staff. Terhune shows her assistant that she values her staff, their opinions and their choices. "If I would have done something differently, however, I explain what I would have done and why, to my assistant," Terhune said.

Ensure the assistant attends every senior management meeting. "In that meeting, finance, HR and programmatic issues arise, and he can see all aspects of operations," she said.

Provide a role at committee meetings. "I have my assistant attend to present issues," Terhune said.

Encourage your protégé to attend meetings geared to those in the field. "This gives him opportunities to network, develop professionally and learn from others' experiences," Terhune explained. ■

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Student debt, money management affects overall success

College students this year will face more debt than in years past, experts say. Growing student debt combined with personal and parental money struggles can affect student success, retention, health and financial future.

Student affairs professionals can play a role in teaching money management to students. When students have already made poor choices or find themselves in financial trouble, point them to reputable sources of information and advice, as well as financial resources. "This generation has been asked to borrow into the future to pay for their higher education now unlike any generation previous," said Christine Lindstrom, higher education project director for the U.S. Public Interest Research Group.

College graduates in 2007 carried 6 percent more student loan debt than the class of 2006, according to The Project on Student Debt, a report by The Institute for College Access & Success.

Student credit card debt also continues to grow. "They [students] face higher ancillary costs of getting their degree, so they rely on their newly acquired credit cards to pay for their textbooks, transportation, and even the tuition that their loans don't cover," Lindstrom said. "These cards have high penalty interest rates and gotcha fees and are aggressively marketed on campus, so the debt keeps piling up."

Experts predict this year's graduates will have \$22,000 in student loan debt, plus more than \$3,000 in credit card debt, according to TICAS and USPIRG. "As a result, the average college graduate starts their life in the hole, rather than on firm footing," Lindstrom said. "Wages have not risen in general, and housing and transportation costs are high. And with no savings, young adults are at a serious disadvantage when they carry heavy loan debt into their lives after graduation."

"Engaging and relevant services [about] — how to manage money, how to pay for college, what costs to anticipate, and what trade-offs to make for paying for them, are critical now when families may be able to provide even less help because of the economic downturn," said Lauren Asher, vice president of TICAS.

Offer money management courses that "explain best practices," such as "allocating specific amounts of money for each semester or quarter and then using a debit card to access those funds," said Dwight Short, a financial consultant. When the money runs

out, they'll need to work or wait.

"Student affairs professionals can help educate young adults about the detrimental consequences of debt," Lindstrom said. "Expose students to tips for managing credit and their loans, but with programs not specifically tied to or funded by a bank."

Although student loans can become a burden for some, federal student loans often help students stay in school, better than dropping out or paying for high-interest loans or credit cards, experts say.

Students with financial struggles may work long hours, suffer from anxiety or not have money for books, Asher said. Research shows "reciprocal relationships between financial aid and student services professionals can make a big difference for student success. The decisions students and their families make can have a very strong impact on the odds of the student completing college, completing a course, and getting good grades. Financial aid problems can manifest as performance and retention problems." ■

Student debt resources

The following resources provide information about student debt and money management:

- **Characteristics of Fair Campus Credit Cards**, a booklet for students, available at www.truthaboutcredit.org; click on resources. For large batches, contact chris.lindstrom@pirg.org.
- **The Campus Credit Card Trap Report**, a report based on a 2008 survey of more than 1,500 college students at 40 institutions. It's available at www.truthaboutcredit.org.
- **The Project on Student Debt**, a report available at www.projectonstudentdebt.org or www.ticas.org.
- **Maxed Out**, a video, available to show on campuses. Contact chris.lindstrom@pirg.org or www.affil.org for more information.
- **In Debt We Trust**, a documentary on DVD, available at www.indebtwetrust.org.
- **You've Been Fool'd**, a Web video spoof of the MTV show, *You've Been Punked*, about credit card industry practices.
- **Generation Debt: Why Now is a Terrible Time To Be Young**, a book available at www.gendebt.com.
- **Strapped: Why America's 20 and 30 Somethings Can't Get Ahead**, a book available at www.strappedthebook.com.
- **Consumer debt blog**: www.maxedoutgen.com.
- **Financial advisers, consultants and speakers**: www.cfp.com/search, www.naifa.org, www.dlsconsult.com, www.financialpeace.com or www.imca.org. ■

Growing debt, poor economy impact vulnerable students

Overwhelming debt and struggles paying bills in these financially difficult times can trigger or worsen stress, anxiety, depression, or other issues for some students at your institution. But student affairs professionals can play a critical role in helping students recognize and address mental health problems before they become more serious.

“Educating students about stress and the dangers of chronic stress is valuable and helps with self-care skills to prevent problems,” according to Dr. Tom Brady, a psychiatrist and the vice president and chief medical officer of CRC Health Group, a national behavioral health organization. “With this population, in this economic downturn, increased stress cascades into other behavioral health problems that can lead to not being able to function well.”

Two groups of students are most vulnerable to developing mental health difficulties as a result of personal debt and the recession, Brady said.

“The first group is those who are marginal economically to begin with. This economic downturn has been drastic for them,” Brady said. The recession may prevent parents from helping students.

“What if they need to rent the student’s room? The house is foreclosed on? There is no home to come home to? They need to spend their kids’ college fund?” Brady asked. “Kids may have survival guilt. They’re in college, happy-go-lucky, but their parents are struggling. Parents may ‘parentify’ the student, which could increase stress. Students may drop out of school and get a job because they don’t want to put stress on the family.”

The second vulnerable group is students who have a history of mental health problems. “About 70 percent of substance abuse and mental health problems are hereditary,” he said. “Stress and going away from home the first time can exacerbate these vulnerabilities to show significant symptoms when there was only vulnerability before.”

Students may turn to unhealthy solutions. “One of the great self medications for stress and mental health problems is substance abuse,” Brady said. “Abuse can lead to dependence, addiction and negative consequences, including deteriorating social functioning and academics, dropping out of school, and, if they are prone to mental health problems, a worsening of those problems.”

Brady said it helps to:

Watch for danger signs

For some students, personal and family financial struggles can trigger mental health problems. Student affairs professionals should stay alert to changes in social or academic behavior in students, said Dr. Tom Brady, a psychiatrist and vice president and chief medical officer of CRC Health Group. He noted the following warning signs:

- Showing up late, calling in sick, or missing early morning classes.
- Increased use or abuse of alcohol or drugs (alcohol on the breath, bleary-eyed, comments about all-night partying).
- Poor hygiene or not eating well.
- Failing classes.

If students mention they’re failing or staying up all night, “pursue them,” Brady said. “Say, ‘I’m concerned. This is new for you. What’s going on?’” Also watch for these additional self-destructive or suicidal behaviors:

- Having suicidal thoughts, especially acting on them, or past suicidal behavior.
- Worsening symptoms of pre-existing anxiety, depression or post-traumatic stress disorder.
- Cutting.
- Driving recklessly.
- Getting into fights.

If students exhibit any of these symptoms, “get them to a counselor,” Brady said. “Confidentiality has to go out the window for safety reasons.” And tell students, “concerns about other students shouldn’t be kept a secret because it could have tragic consequences. It’s important to ... bring it up to them in a caring, respectful way.” ■

- ❑ **Provide education and awareness programs** about stress, mental health issues and self-care.
- ❑ **Talk with students about their concerns** and any concerns you have about them.
- ❑ **Encourage students to visit a counselor.**
- ❑ **Encourage involvement in positive activities**, such as clubs, sports and the arts. “These can be a buffer and discharger of stress and emotion,” he said.
- ❑ **Promote a balance** of work, play, social time, alone time, study time, laughter and exploration — particularly when under stress.
- ❑ **Advise students to avoid overloading** their class or work schedules.
- ❑ **Suggest students meditate** for a few minutes every morning on activities and behaviors they will choose and which they will avoid.

E-mail Brady at tbrady@crchealth.com ■

Bike programs address to parking, traffic concerns

Fluctuating gas prices, overcrowded parking lots and roads, competing demands for space, health issues, and environmental concerns have one solution in common: campus bike share or rental programs, according to many student affairs professionals.

A growing number of colleges have begun embracing the new trend of offering bikes to students, faculty, and staff, at little or no cost. Bike programs can even lead to savings and income.

“Just last year, the number of bike programs we’ve been covering ... grew significantly compared to previ-

ous years,” said Julian Dautremont-Smith, associate director of the Association for the Advancement of Sustainability in Higher Education. “They’ve grown concurrently with rising oil prices, the cost of gas, and rising awareness of global warming.”

At least 16 campuses in the United States and Canada offer low-cost bike rental programs and at least 62 offer free bike share programs, according to an informal list maintained by AASHE (www.aashe.org).

Bike rental programs are similar to renting a car — participants fill out a form, show ID, and pay by the minute. But these programs differ in that riders can use bikes for free, although registration is still required. Other programs give each incoming student a free bicycle to keep. ■

Seek partnerships, donations, advertising to help fund bike share program

A bike share program sounds like a good idea, but can you afford it with a tight budget? Yes. Many institutions have found bike programs affordable, even financially beneficial. A bike program “reduces expenses in paying commuting costs, is exceptionally good for the environment, improves people’s health, and reduces costs paid annually for doctors’ visits,” said David Hanson, associate vice president for administration at Emory University, which has a program called Bike Emory. “It’s not a significant investment for really huge payoffs,” he said. “It’s the right thing to do in a time of economic turmoil and environmental degradation.” Emory pays for electricity and an Internet connection to its mobile repair shop, \$5,000 for helmets, \$5,000 for a program manager, and \$15,000 for marketing.

Here’s tips on how to fund a program and sell the idea to your institution:

- **Establish local and national partnerships**, as Hanson did with Advanced Sports, Inc., which donated \$50,000 worth of bicycles and a Web site. Twenty bikes went in the bike share and the rest became give-aways at campus events. Patrick J. Cunnane, president of Advanced Sports, said he mainly sells bicycles to dealers, but will discuss partnerships or sales with institutions. Other programs use bikes purchased or donated from major retailers such as Wal-Mart, LL Bean, or rehabbed ones from bike shops. Partnerships with local shops also help cover maintenance and repairs, Hanson said.
- **Use student interns and federal work study students to run the program**, said Paul J. Matthews, assistant vice president for facilities management at St. Xavier University in Chicago.
- **Charge registration or rental fees — and avoid damage and theft.** Staff, faculty, and commuter students become members of the Xavier bike program for a \$20 fee, departments pay \$100, and resident students are free. Xavier uses a computerized system in partnership with Veloway Transportation and Oy Bikes. Members check out bikes with a smart card loaded with a set amount, Matthews said. The first 15 minutes are free; then 60 cents for every 15 minutes. The system asks if they want to add more money and if the bike is in road-worthy condition. A “yes” holds riders responsible for any subsequent damage — and gives a code for the bike’s lock. Riders return the bike to secured docking stations.
- **Sell advertising on placards on the sides of bicycles**, as Xavier plans to do. The placards also keep mud and water off bicyclists’ legs, Matthews said.
- **Consider the savings.** “If we don’t have to build parking lots, that will amount to savings we can invest in alternative transportation,” said Mark Nahorney, director of campus center at The University of New England. “Because there are so many competing interests in the budget and parking lots are not one of them, this was an easy sell.”

Ripon College’s start-up costs totaled \$50,000. “That’s the cost of three parking spaces in a multilevel garage,” said Chris Ogle, vice president and dean of students at Ripon.

Contact Chris Mesigian, marketing manager at Advanced Sports/Fuji bikes, at cmesigian@advancedsports.com or (800) 631-8474. Contact Veloway at info@veoliatransportation.com, www.veoliatransportation.com, or (630) 571-7070. Contact OYBikes at info@oybike.com, www.OYBike.com, or (0845) 226-5751. ■

Follow steps to successfully launch campus bike share program

Before you launch a bike share or rental program on your campus, start planning a year in advance and follow these steps.

They are offered by Jamie Smith, senior program associate, and David Hanson, associate vice president for administration, both at Emory University, and Paul J. Matthews, assistant vice president for facilities management at St. Xavier University in Chicago. Other contributors include: Chris Ogle, vice president and dean of students at Ripon College; Mark Nahorney, director of campus center at The University of New England; and Staci Weber, director of student activities, and Rob Yelnosky, vice president of finance, both at Juniata College in Pennsylvania.:

1. Decide why you want a bike program and market it from that angle: Wellness? Sustainability? Parking? Traffic? Commuting costs?

2. Collaborate with a student bicycling club, or a focus group of students, faculty and staff, to discuss funding, fees, policies and marketing.

3. Determine specific needs — e.g., topography, weather, traffic, size of campus, population. Rainy weather calls for fenders, hilly terrain requires more gears, and longer trips necessitate baskets.

4. Clearly communicate whether you are offering a bike share or bike rental program.

5. Publicize via Web site, e-mails, and orientation, especially targeting new students.

6. Give incentives to encourage participation, such as free or discounted bikes, rentals, locks, and helmets to students who don't bring a car to campus, as well as drawings for free bicycles.

7. Require identification and registration of all bike program participants.

8. Offer training on safety, maintenance and repair (including putting air in tires and how to fix

a flat), and rules of the road for all program staff, volunteers and participants.

9. Equip bikes with automatic headlights and taillights — essential nighttime safety items.

10. Give helmets for free, or at a discount because riders may not buy them.

11. Identify the bicycles as belonging to your campus, perhaps painted in school colors.

12. Install extra bike racks throughout campus. Plan for more than the number of bikes in your program because others will bring their own bikes onto campus.

13. Protect bikes and riders from the weather. Consider roofs over the bike racks or enclosed storage during rainy or snowy seasons.

14. Keep roadways and pathways clear of snow and consider prohibiting nonbicycle traffic from roads that cut through campus.

15. Plan on-campus weekend activities because students who choose bikes instead of cars can't travel as easily.

16. Require all participants to use locks you provide free, or at secured docking stations.

17. Schedule regular maintenance and arrange for free repairs at on-campus mobile repair fairs or local bike shops.

18. Evaluate your program regularly to discover any needed changes. Survey participants, staff and volunteers.

19. Check-in with and thank volunteers and staff often.

E-mail Ogle at oglec@ripon.edu; Weber at webers@juniata.edu; Yelnosky at yelnosr@juniata.edu; Nahorney at mnahorney@une.edu; Matthews at pmatthews@sxu.edu; Smith at Jamie.smith@emory.edu; Hanson at David.hanson@emory.edu; or visit www.bike.emory.edu. ■

Many institutions offer bike share, rental programs

It's likely other colleges and universities in your area offer bike share or rental programs on their campuses. Here's a sampling of some of the institutions offering such programs, based on an informal list maintained by the Association for the Advancement of Sustainability in Higher Education.

Free Bicycle Share Programs:

- Arizona State University
- Berea College (Kentucky)
- Carleton College (Minnesota)
- Duke University (North Carolina)
- Goucher College (Maryland)
- Luther College (Iowa)
- Macalester College (Minnesota)

- Middlebury College (Vermont)
- Ohio State University
- Texas Christian University
- University of Idaho
- University of Maine
- University of Montana
- University of New Hampshire
- University of New Mexico

- University of North Dakota
- University of Ottawa
- University of West Florida

Bicycle Rental Programs:

- Bates College (Maine)
- Michigan State University
- Oberlin College (Ohio)
- University of Wyoming ■

Is a university liable to student shot while visiting campus?

Walter Williams sued Clark Atlanta University for injuries he suffered when he was shot on property allegedly owned by the university. The record revealed that at the time of the shooting, Williams was a student at Morris Brown College. Like Clark Atlanta, Morris Brown was part of a consortium of six institutions. The institutions collaborated and the students intermingled.

After spending most of the day on the Clark Atlanta campus, Williams walked back toward his dorm down Clark Atlanta's faculty row, where the university owned faculty houses it leased to faculty members and other employees.

Although Clark Atlanta offered testimony that faculty row was not "on [its] campus," the properties were on a campus map. Williams stopped in front of a Clark Atlanta faculty house across from his dorm to visit with friends, but 45 minutes later, two men appeared with guns and Williams was shot.

Clark Atlanta argued Williams was on a public sidewalk adjacent to a public street at the time of the assault, so it was not liable for his injuries and even if Williams was on Clark Atlanta property when the shooting occurred, he was not a university invitee, and Clark Atlanta owed him no duty of ordinary care.

Under Georgia law, a landowner must exercise ordinary care in keeping its premises and approaches safe for invitees. An invitee is someone whom a landowner, by express or implied invitation, induces or leads to his premises for any lawful and mutually beneficial purpose.

The trial court held the case should go to trial to decide whether Clark Atlanta owed Williams a duty of care when he visited the faculty row houses.

Clark Atlanta Univ. v. Williams, No. A07A0870 (Ga. Ct. App. 11/01/07).

Did the Georgia Court of Appeals agree with the trial court and allow the case to proceed to trial?

A. Yes. Clark Atlanta owed a duty of care to everyone on campus. An issue of fact existed as to whether the faculty row sidewalk where the shooting occurred was part of Clark Atlanta's campus.

B. Yes. Clark Atlanta owed a duty of care to invitees and issues of fact existed as to whether Williams was an invitee and whether the faculty row houses were part of the campus.

C. No. It granted summary judgment to Clark Atlanta because Williams was shot while on campus for personal reasons and without invitation.

D. No. It granted summary judgment to Clark Atlanta because a landowner cannot be held liable for unforeseeable circumstances.

Correct answer: B. Yes.

Under Georgia case law, the relationship between a university and its students is one of mutual benefit, rendering students "invitees." The appeals court held that earlier in the day, Williams undoubtedly was an invitee on the campus. The question was whether he lost that status at some point before the shooting. So the trial court properly denied Clark Atlanta's motion for summary judgment on that basis. ■

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At a glance

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DISABILITY

Involuntary medical leave violated student's ADA rights

Case name: *Letter to: Pratt Institute*, No. 02-07-2105 (OCR 02/12/08).

Ruling: The Office for Civil Rights determined Pratt Institute discriminated against a student because of her disability. Pratt agreed to amend policies for students with mental disorders. OCR will monitor Pratt's implementation of the revised policy to ensure compliance with Section 504 of the Americans with Disabilities Act.

LAW & CAMPUS

This regular feature keeps you informed about lawsuits affecting students and student affairs programs, services and staff.

What it means: An involuntary medical withdrawal policy for students with mental or emotional disorders that does not provide an opportunity to appeal the institution's decision discriminates against individuals with disabilities in violation of Section 504.

Summary: A student alleged Pratt discriminated against her on the basis of her disability when it placed her on involuntary medical leave following her voluntary admission to a psychiatric facility.

She claimed Pratt did not allow her to appeal the decision nor individually assess her ability to return following her discharge.

Pratt advised OCR it had followed its *Involuntary Administrative Withdrawal for Mental or Emotional Disorders* policy, which states students "will be subject to involuntary administrative withdrawal ... if it is determined that [they] appear to be suffering from a mental or emotional disorder."

OCR's investigation revealed the policy provided for an interim withdrawal for students who appeared to pose an imminent danger to themselves or others.

OCR also found the policy did not offer students appeals for involuntary administrative withdrawals.

According to OCR, the policy did not provide due process comparable to that provided to students without mental or emotional disorders. ■

FREE SPEECH

Preacher's ejection violated freedom of speech

Case name: *Davis v. Stratton*, No. 1:06-CV-1323 (LEK/DRH), (N.D.N.Y. 09/09/08).

Ruling: The U.S. District Court, Northern District of New York held that a university official and municipal police officers unconstitutionally applied New York's trespass statute to remove Greg Davis from Schenectady County Community College, in the State University of New York System. The court also enjoined them from interfering with Davis' First Amendment right to preach and videotape in the Quad area at SCCC.

What it means: Institutional regulations and state or municipal criminal laws restricting free speech in certain areas of a university will be held unconstitutional unless they are narrowly tailored to serve a significant government interest.

Summary: Davis, an ordained Baptist preacher, was arrested while preaching the gospel in SCCC's Quad area.

He sued the city and its police department for damages. Davis also moved for an injunction against all defendants to prevent them from applying New York's criminal laws to shut down protected speech and to prohibit him from preaching the gospel, leafleting, videotaping, and holding signs in SCCC's designated public areas.

Regulation of speech on government property that has been traditionally open for expressive activity, or which has been expressly dedicated to speech

FREE SPEECH

Evenhanded enforcement of flier policy satisfies First Amendment

Case name: *M.A.L. v. Kinsland*, No. 07-1409 (6th Cir. 10/07/08).

Ruling: The 6th U.S. Circuit Court of Appeals rejected a student's claim that limits placed on his ability to distribute fliers on campus infringed on his free speech rights. The 6th Circuit reversed the District Court's decision in *M.A.L. v. Kinsland*, No. 07-10391 (E.D. Mich. 01/30/07).

What it means: Universities may regulate the time, place, and manner in which students may distribute nonschool literature in campus teaching facilities. Such restrictions are permissible provided they are not selectively applied or enforced according to students' viewpoints.

Summary: A Michigan middle-school principal could enforce a viewpoint-neutral flier distribution policy without violating an eighth grader's free speech rights. The district argued that it was entitled to place reasonable time, place, and manner restrictions on the distribution of nonschool sponsored literature to prevent hallway clutter and congestion.

The court noted the First Amendment does not guarantee the right to communicate one's views at all times and places, in any manner desired. In a nonpublic forum, such as a hallway in a university building, administrators may put time, place, and manner restrictions on student speech so long as the restrictions are viewpoint neutral and reasonable in light of the institution's interest in preserving the forum's intended purpose. Because the school's flier policy did not restrict leafleting based on subject matter or viewpoint, the policy passed constitutional muster.

The flier policy required students to obtain approval from school administrators before they could distribute nonschool literature on campus. The principal allowed the student to distribute fliers detailing various facts about abortion at a table in the cafeteria during his lunch hour and to post fliers in the hallways and on student bulletin boards. However, the principal did not allow him to distribute literature to other students in school hallways.

Relying on the U.S. Supreme Court's rationale in *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, the student maintained that such restrictions were inappropriate without objective evidence of the likelihood that the distribution would cause a material disruption of school operations.

Although the District Court applied *Tinker's* "substantial disruption" standard, the 6th Circuit explained that it did not apply in this case. "Schools must meet a higher constitutional standard when they seek to foreclose particular viewpoints than when they seek to impose content-neutral and viewpoint-neutral regulations of the time, place and manner of student speech," the court said.

In *Tinker*, the school attempted to silence students' political views opposing the Vietnam War. The key difference here, the 6th Circuit explained, was that the school's flier distribution policy applied to all students, regardless of the content or views expressed in their fliers. The fact that the school provided the student with alternative avenues to distribute fliers supported the conclusion that the policy was not directed toward his views on abortion. ■

activity, is examined under strict scrutiny. Regulation of speech on a limited-purpose public forum is examined under heightened scrutiny. However, where property is not considered a public forum and the government has not dedicated it to First Amendment activity, the regulation is examined only for reasonableness. To survive strict scrutiny, a statute or policy must be necessary to serve a compelling government interest.

Under the heightened scrutiny standard, the statute or policy must be narrowly tailored to serve a significant government interest.

The court held no rule or policy at SCCC was properly applied to exclude Davis from the campus.

The college's rules stated nothing was intended to limit or restrict the freedom of speech nor peaceful assembly.

The court held that campuses have traditionally been places for the free exchange of ideas.

Because there was no restriction of the Quad area to any specific type of speech or speaker, the court concluded the government had not created a "limited public forum." Accordingly, the Quad was either a traditional or a designated public forum.

The use of New York's trespass statute to exclude Davis from the campus failed both the heightened scrutiny and the strict scrutiny standards. ■

RACIAL DISCRIMINATION

College's response to graffiti not in legal compliance

Case name: *Letter to: Delaware Valley College, No. 03-07-2128 (OCR 03/06/08).*

Ruling: The Office for Civil Rights determined that Delaware Valley College had violated Title VI when it failed to properly address several incidents of racial harassment.

OCR closed its investigation after Delaware Valley agreed to take appropriate measures to deal with such incidents.

What it means: To establish that a university violated Title VI under the hostile environment theory, OCR must find that: 1) a racially hostile environment existed; 2) the university had actual or constructive notice of the racially hostile environment; and 3) it failed to respond adequately to redress the racially hostile environment.

Summary: OCR investigated allegations of racial discrimination based on a hostile environment at Delaware Valley College. Threatening graffiti depicting offensive symbols and racial slurs had appeared on several college buildings on six occasions during a nine-week period.

College officials had issued two e-mails reminding students and staff members that such behavior violated its antidiscrimination policy.

A racially hostile environment created, encouraged, accepted, tolerated, or left uncorrected by a university constitutes discrimination on the basis of race in violation of Title VI.

An institution may violate Title VI if it creates or is responsible for a racially hostile environment that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges it provides.

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To establish a violation of Title VI under the hostile environment theory, OCR must find that:

1. A racially hostile environment existed.
2. The university had actual or constructive notice of the racially hostile environment.
3. The university failed to respond adequately to redress the racially hostile environment.

OCR determined that racial harassment at Delaware Valley was sufficiently severe, pervasive, and persistent due to the number and severity of the incidents as well as the relatively brief time period in which they occurred.

Delaware Valley's e-mails did not state that the graffiti could create a hostile environment based on race. The communications did not explain that a hostile environment deprives members of the college community of their right to be educated and work in an environment free from discrimination. Additionally, Delaware Valley did not warn that disciplinary sanctions would be taken if it was determined that a student, staff member, or third party had engaged in behavior that created a hostile environment.

The e-mails did not state that the penalty for this conduct by a student could be expulsion from the college.

Additionally, the college did not request assistance in identifying the perpetrator. One e-mail even speculated that the responsible party might never be found.

OCR found Delaware Valley in violation of Title VI. The college agreed to establish new procedures to deal with situations of a hostile racial environment. OCR closed the complaint, but will monitor Delaware Valley's compliance plan. ■

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TAMARA KING, DIRECTOR OF JUDICIAL PROGRAMS, WASHINGTON UNIVERSITY AT SAINT LOUIS

Learn to handle Internet, mental health issues fairly

The world is changing at a faster pace than ever before, forcing student affairs professionals to navigate many new challenges in mostly uncharted territory. That fact is evident in the daily work of student affairs professionals such as Tamara King, director of judicial programs at Washington University at Saint Louis.



TAMARA KING

“We are coming into some areas where we don’t have as much experience and precedence, [mostly] because of the electronic medium,” said King, the new president of the Association for Student Judicial Affairs who is its first African American president.

She points to the quandaries that arise when computer use collides with free speech or cheating, as well as when mental health and medical leave impact student conduct.

Students use computers to spread rumors or other harmful information about students, faculty and staff. “We’re not used to dealing with that,” King said. For example, the student gossip Web site *juicycampus.com*—“the bathroom wall, electronically”—provides students with an easy, accessible and anonymous venue “to post anything about anyone on campus, whether it’s true or not,” she said. “It’s not generally used to say positive things about students or administration. Because it’s electronic, it can reach

so many more people than a newspaper.”

Even computer use policies “do not necessarily address harmful or destructive information about other students, faculty and staff,” she noted. “You’re trying to balance a person’s free speech rights with the harm and damage to your university population.”

The electronic age has complicated academic misconduct or cheating, King said. Students often lack training in proper attribution and in determining which Web sites have reliable, accurate information. Others plagiarize intentionally. “It used to be a lot harder to plagiarize,” she said. “Now it’s at your fingertips.”

But colleges can use software to detect plagiarism and require first-year writing courses that cover plagiarism and accurate attribution.

Even long-standing mental health issues have become more frequent and more complicated, King said. “We’ve seen an increase in students who come to campus with previous mental health issues,” King said. “How effective are we at addressing the mental health issue, but balancing that with the university’s expectations for student behavior on campus?” she said.

Throw into the mix students on medical leave—due to behavioral problems connected to a mental health issue. Administrators must make difficult decisions about what to require for re-entry. “You can’t ignore the behavior that brought them onto the radar screen,” King said. She suggests creating a policy that’s fair for all, but acknowledges the situation requires a delicate balance of education, development and accountability.

E-mail King at king@wustl.edu. ■

WORD OF ADVICE

Stay true to your ethical standards

Tamara King’s background as a practicing lawyer for 11 years prior to working in judicial affairs helps her understand the legal ramifications of addressing the new issues facing today’s college campuses. She’s currently director of judicial programs at Washington University at Saint Louis.

But after working in judicial affairs for nine years, she says she still must make a conscious effort every day to avoid a “cookie-cutter” approach. She offers this advice to others facing the same challenge: Take your time, look at the whole student, and consider individual and extenuating circumstances.

You must stick to your ethical standards, remembering how your decisions impact others’ lives and futures, King said. Judicial affairs officers get bribed or attempt to get bribed “all the time” because of the control they have over whether a student can remain at an institution, King said.

“Know exactly where your ethical barometer is and then hold true to where it is because there will be times when you will be challenged and your ethics will be all you’ve got to rely on,” she said. “You will be challenged, sometimes by a university, sometimes by parents, sometimes by lawyers. There’s always an opportunity for us to succumb to outside pressure.” ■