

Student Challenges to Academic Decisions

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Overview

- What is the impact of academic decisions vs. decisions based on student behavior?
- What are the legal constraints on the college or university in academic decision-making?
- What can happen when a breach occurs ? What are the lessons of Sharick v. Southeastern University of Health Sciences?
- What are the practical and ethical considerations in academic decision-making?

Introduction

- The primary mission of colleges and universities is to educate students. Awarding a degree certifies that the student has successfully met academic standards.
- An institution's academic decisions must preserve the integrity of the degree and be fair and professional in evaluating students.
- Without a degree many opportunities are foreclosed.
- Because of the high stakes, students have sought judicial action to overturn unfavorable academic decisions.

Judicial Deference

- There is a long standing precedent of judicial deference in academic matters.
- In the landmark cases of Horowitz v. Board of Curators of the University of Missouri and University of Michigan v. Ewing, the Supreme Court adopted more than 60 years of precedent in the lower courts distinguishing between academic matters and matters of misconduct.
- Academic deference by the courts applies to public and private institutions. Courts do not wish to second guess professional expertise based on cumulative judgments.

Academic v. Misconduct

- The line between academic and behavioral matters is not always clear. If a court determines that the school's decision is based on a factual assessment and not on a subjective judgment of competency, the matter at issue will likely be deemed behavioral.
- Cheating - usually seen as misconduct, but one court has characterized it as academic.
- Performance in clinical courses - usually seen as academic though plaintiffs frequently attempt to characterize it as behavioral.

Cause of Action

- Whether the college or university is public or private can affect the cause of action available to the plaintiff.
- Public institutions are subject to due process claims based on the Constitution as well as to the contract and estoppel claims that predominate in actions against private institutions.
- While actions in tort may be gaining more judicial favor than they have had, contract and due process claims predominate and are occasionally successful. These actions and the legal framework on which they are based will be the focus of this presentation.

Contractual Relationship

- There is an implied contractual relationship between the student and the institution.
- If student is accepted, pays tuition, and meets the academic and other requirements of the institution, the institution will provide education and issue a degree to the student upon completion.
- The institution has an obligation to act in good faith in dealing with the student. Institutional action cannot be arbitrary or capricious.
- Explicit terms of the contract are in handbooks, catalogs and other statements of institutional policy.
 - Reservation of rights
- The institution has the ability to modify its rules and requirements

Contract Interpretation

- While there is consensus that the relationship between the student and the college or university is contractual, courts usually refuse to apply strict commercial principles, recognizing the special circumstances of academia.
- Interpretation of the contract is based on the reasonable expectation of the parties and the normal everyday meaning of the words.
- Express statements in the catalogs are ordinarily enforced.
- Statements, both written and oral, made by professors and advisors can become part of the agreement, or courts may prevent the institution from applying its policy if the student relied to his/her detriment on conflicting advice of a faculty member (unless in so doing the academic standards of the institution will be compromised).

Contract Interpretation... Continued

- The doctrine of substantial performance has been applied
 - to actions of a student (Russell v. Salve Regina College).
 - to actions of the university (Ross v. University of Minnesota).

Breach by the Institution

- Charges of breach against the institution have found judicial support where the institution acted in bad faith, was arbitrary or capricious, or when it failed to meet an obligation unrelated to academic evaluation.
- Breach of Implied Contract
 - Zumbrum v. University of southern California
 - Wickstrom v. North Idaho College
- Breach of Express term of the contract
 - Elliot v. University of Cincinnati
 - Tedeschi v. Wagner

Due Process

- Under the 14th amendment to the Constitution, public institutions cannot deny a student of a liberty or property interest without appropriate due process. (Private institutions may be held to similar requirements if they are deemed state actors or pursuant to common law requirements).
- In Horowitz and Ewing the Supreme Court avoided determining whether the dismissals deprived the students of a liberty or property interest that was constitutionally protected. Instead, the Court reviewed the dismissals on the assumption that a protectable interest existed.

Due Process....

- Horowitz:
 - Required procedural due process in an academic matter- Notice to student of dissatisfaction with academic progress, and the decision to dismiss is careful and deliberate.
 - Required substantive due process in academic matter- The decision is not clearly arbitrary and capricious.
- Ewing:
 - Required standard for violation of substantive due process in academic matter - "Such a substantial departure from accepted academic norms to demonstrate that the person or committee did not exercise professional judgment."

Due Process....

- Failure to follow own rules
 - not a per se violation of procedural due process if constitutional requirements are met with the process provided.
- In rare instances an institutional action has been deemed arbitrary and capricious
 - Maitland v. Wayne State University Medical School

Discrimination

- If discrimination is involved in an academic decision, the decision will not meet careful and deliberate standard and will be deemed arbitrary.
 - Abbariao v. Hamline University School of Law.
 - Gosset v. State of Oklahoma and Board of Regents for Langston University

Support of Fair and Reasonable Action

- When colleges and universities seek fairness, keep the student advised of academic deficiencies and have a reasoned basis for academic action, courts will not interfere with the institution's academic evaluations.

The End

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