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The University’s Response to Millennial Parents

The parents of millennial students, “millennial parents” if you will, have arrived at the university and created a new and evolving tripartite relationship between student, college, and parent. Driven by consumerism and the escalating costs of higher education, parents are increasingly inserting themselves into traditional areas of higher education management from roommate conflicts to campus safety, from disciplinary systems to medical care. Parents demand more accountability and a seat at the governance table. Student affairs professionals increasingly devote more and more of their time to explaining and justifying decisions to parents. Universities, originally resistive to attempts at parental intrusion into the college student relationship, have now succumbed to the inevitable tide of helicopter parents by developing orientation programs, web sites, and parent relations programs designed to better define the appropriate role that parents should take in their student’s developmental journey.

Despite these programs, a distinct divide persists between the role parents claim for themselves and the role educators believe they should play. This divide in role and expectations has led to increasing parental activism. Incidents of campus violence at Virginia Tech and Northern Illinois University have only heightened parental concerns. However, the distance between parental role perception and legal perceptions of this relationship has widened. With rare exception the courts have been unwilling to acknowledge a protective custodial model advanced by some parents. The parental view of the relationship between student and college is still stridently different from the prevalent legal view of the student as an adult. In short, parents often see the college as assuming greater duties than the courts are willing to acknowledge. Colleges, however, may unintentionally support this notion of perceived duties by promoting

parent relations programs and services that create the impression of university oversight and assumed duties. The risks of fueling such perceptions in an effort to affirmatively engage parents in their student's development, could eventually jeopardize the strong support given universities by the courts to manage the educational enterprise. Just as universities created complex judicial systems to assure fairness in the wake of the Civil Rights revolution of the 1960s, universities today risk ceding away legal protections in an effort to satisfy the consumerist expectations of parents. Universities should be vigilant in carefully defining the parental role, overseeing parental communications, and managing the expectations of parents. Both legal standards and student development theory can provide guidance to colleges in structuring a relationship covenant with parents that is based upon realistic expectations, student accountability, and shared responsibilities.

No matter what the name, "hyper-parenting," "uber-parenting," or "over-parenting," the subject of the overly involved parent has received considerable media attention in the last few years. *Time* magazine asked, "Can these parents be saved?" The *Washington Post* commented that "they are needy, overanxious and sometimes plain pesky." The *Wall Street Journal* reported that "a new generation of over-involved parents is flooding campus orientations, meddling in registration and interfering with students' dealings with professors, administrators and roommates." Helicopter parents are going to college, and colleges are responding by offering a myriad of programs to address and manage their appearance on the scene. Moreover, educators are beginning to evaluate the nature, scope, and impact of parent-student relationships in college. Some evidence suggests that "healthy attachment to parents can support students' development of social and interpersonal competence." (Taub, 18) But "parents providing excessive emotional support can inhibit students' development of autonomy." (Taub, 18) "Wealthy and upper-middle/professional middle-class students report significantly higher levels of parental engagement than students from less affluent backgrounds." (Wolf, Sax, and Harper, 347)

In their book, *Millennials Rising*, Neil Howe and William Strauss advanced the theory that the Millennial generation had been raised in a fashion that sheltered them, rewarded them, and dubbed them as special. They have been pressured to perform and have become excessively involved in extracurricular activities. Parents are frequently more attached to their children as close friends than as parents. Moreover, sixty-four percent of Millennial-age young people were most likely to choose their families as the people they would turn to for advice about a serious

problem. Almost seventy-five percent of them reported receiving financial help from their parents in the past year, and sixty-four percent reported that parents helped them complete tasks such as errands and housework. (Kohut and others, 2007). In fact parents often tend to live their lives through the accomplishments of their children. The generation of parents who pasted the “Baby on Board” sticker to their vehicles has now founded the College Parents of America (CPOA) which defends “the helicopter parent,” even as it employs helicopter blades as a symbol on its web site. Although one may question whether the recent phenomenon of over-involved parents confirms generational theory, the reality of increased parent involvement in higher education cannot be questioned. It has prompted institutions to develop programs, positions, and communications strategies addressed to parents. The president of CPOA criticizes the reluctance of “hand-wringing” and “eye-rolling” administrators in announcing the goal of parental involvement, when he writes on the CPOA web site: “Now, we hope that forward thinking schools will realize they can channel this parental involvement in positive and productive support of what should be everyone’s principal goals – student success in school and student achievement of practical skills, as necessary components of preparation for a productive and happy life.” <http://www.collegeparents.org/cpa/resource-current-campus-survey>

Many educators might question CPOA’s emphasis on student success and practical skills as the prerequisites of a productive and happy life. The tension between the traditional canon of student development offered by higher education and CPOA’s vision of “success” suggests a serious difference of perspective about the ultimate goals of a college education. Traditional student development theory runs counter to the viewpoint of overly involved parents. David Kolb’s research on cognitive development theory, Erik Erikson’s work on the need to encourage student experimentation, and Arthur Chickering’s belief in the need to develop autonomy and independence as a marker of maturity seem to contradict the social context of family relationships that prize interdependence and parental intervention. Certainly, appropriate parental support can be advantageous to student development, just as over-attachment can retard individual identity formation as an autonomous adult. The 2007 National Survey of Student Engagement reports both positive and negative outcomes of parental involvement. “Although students with involved parents reported higher levels of engagement, deep learning and greater educational gains, they had significantly lower grades. Perhaps the reason some parents intervened was to support a student who was having academic difficulties—thus the correlation

with lower grades” 2007 NSSE /Report at 25. This difference suggests the need for greater education of parents on the risks of over attachment and involvement in the lives of their students. Success often means struggle, trial and error, failure, mistakes and a journey of growth and change. Many college counselors have lamented the decline of resilience in this generation of students. Students seem less able to withstand and cope with disappointment.

Much has been written about the close relationships between millennial students and their parents. Recently, Kirsten Kennedy in an article entitled “The Politics and Policies of Parental Involvement” in *About Campus* identified the sources of this tension: a changing relationship between parent and child, a significant financial investment in the child’s future, a greater ability to communicate in real time, and the fact that they believe that interference works. (Kennedy, 2009)

Many parents still assume or intuit the mindset of “in loco parentis” for the college, even though the law long ago rejected this viewpoint and moved toward bystander and business models of tort liability. “Higher education institutions are facing a growing array of negligence lawsuits, often related to students or others injured on campus or at off-campus functions. Although most college students have reached the age of majority and, theoretically, are responsible for their own behavior, injured students and their parents are increasingly asserting that the institution has a duty of supervision or a duty based on its “special relationship” with the student that goes beyond the institutions ordinary duty to invitees, tenants, or trespassers.” (Kaplin and Lee, 195) Despite movement away from the “bystander doctrine” of *Bradshaw v. Rawlings* 612 F.2d 135 (3rd Cir. 1979), the law has been extraordinarily resilient to novel theories of liability based upon ‘special relationship’. In fact, the present trend instead treats universities like landlords or businesses. (Bickel & Lake) The law seems to provide sufficient protection against gravitation toward more implied duties. “In re-imagining the student/college relationship through business law, modern courts only rarely see the college as just a bystander; some harm is inevitable on campus, but the no-liability logic of modern cases is much more oriented towards lack of foreseeability of risk by the university or assumption of risk by students – not college passivity or lack of power.” (Bickel & Lake, 179)

Off-campus social and recreational activities frequently present situations in which parents expect university oversight, but where the university does not usually extend its long arm. Most plaintiffs in such cases have attempted to argue that colleges have assumed a protective

duty toward students through policies or practices based on the principles of *Restatement (Second) of Torts* sec. 323, Negligent Performance of Undertaking to Render Services. Section 323 provides: “One who undertakes, gratuitously or for consideration, to render services to another which he should recognize as necessary for the protection of the other’s person or things, is subject to liability to the other for physical harm resulting from his failure to perform his undertaking if (a) his failure to exercise such care increases the risk of such harm, or (b) the harm is suffered because of the other’s reliance on the undertaking.” Liability depends on a finding that it is reasonably foreseeable that a defendant’s actions affirmatively increased the risk of harm, or that the plaintiff relied to his detriment based upon specific actions or representations which would have caused him to forgo other means of protection. Negligence founded upon negligent performance of an undertaking requires both reasonable foreseeability or actual reliance. Moreover, usually courts have interpreted a successful application of section 323 to require more than just the presence of a policy prohibiting certain conduct or its negligent application. Student conduct prohibitions on underage alcohol consumption have been deemed insufficient alone to establish a duty. *Booker v. Lehigh University*, 800 F. Supp. 234 (E.D. Pa. 1992). Moreover, staff acquiescence in allowing students to engage in prohibited conduct has also been found insufficient. *Rothbard v. Colgate University*, 235 App. Div. 2d 675, 652 N.Y.S. 2d 146 (N.Y.App. Div. 1997). Overcoming a motion for summary judgment has usually required evidence of a university’s affirmative conduct which acknowledged the foreseeability of a risk or would cause a reasonable student to rely upon such conduct. Hence, a college’s affirmative conduct in taking security measures including presence of security guards, gates and doors locked at specific times, a visitor escort policy, and a policy of requiring first year students to live on campus can establish reliance. *Mullins v. Pine Manor Shopping*, 389 Mass. 47 (1983). The presence of university employees at a sorority party can establish assumption of duty as a matter of law to survive a motion to dismiss. *Coglan v. Beta Theta Pi Fraternity*, 133 Idaho 388, 987 P.2d 300 (1999). Only one case, *Furek v. University of Delaware*, 594 A. 2d 506 (Del. 1991), appears to support the finding of a sec. 323 duty based upon the existence of a university anti-hazing policy. Subsequently, the Delaware Supreme Court has limited *Furek’s* holding to injuries which occur on university property *Ingato v. Wilmington College*, 882 A. 2d 761 (Del. 2005).

Two superior court cases in Connecticut illustrate the judicial reasoning that distinguishes between policy and affirmative acts giving rise to findings of foreseeability and actual reliance. In *McClure v. Fairfield University*, 35 Conn. L. Rptr. 169 (June 19, 2003) the court found that a university-sponsored “safe rides” program created a duty under sec. 323. University vans shuttled students to and from the beach. The court reasoned that because a university’s shuttle was not always available, a student, who was struck by an automobile, foreseeably could have changed his conduct in reliance on the service to travel on foot. The university’s affirmative actions put the student at greater risk than had the shuttle not provided transportation. But in the recent case of *Pawlowski v. Delta Sigma Phi*, 2009 Conn. Super LEXIS 170 (January 22, 2009) another superior court distinguished *McClure* in finding no sec. 323 duty in the death of student who was struck by a motor vehicle while crossing a street mid-block after he left a private off-campus residence in an intoxicated state. The court reasoned that that it “was not reasonably foreseeable to the university that the manner in which it enforced its alcohol policy and its past disciplinary actions against certain DSP members enhanced the risk of harm that Pawlowski faced, created a new risk or induced him to forego some opportunity to avoid risk on the night in question.” The court cited with approval *Freeman v. Busch*, 349 F.3d 582 587-88 (8th Cir. 2203) in stating that imposition of such a duty is contrary to the modern view that colleges and universities do not have a duty to act as custodians of their students. As *Freeman* noted, “[S]ince the late 1970’s, the general rule is that no special relationship exists between its own students because a college is not an insurer of the safety of its students.” Id. at 587.

University sponsorship of off-campus activities or curricular programs presents a different assessment of risks and duties. Internships, study abroad programs, field trips, and off-campus service learning assignments provide valuable learning opportunities, but “an increasing number of lawsuits seek to impose liability on the college and its staff for injuries occurring during such off-campus courses.” (Kaplin & Lee, 203) In such programs the university acts affirmatively to endorse an experience and thus assumes a measure of control and responsibility for its sponsorship. The university assumes a duty of reasonable care in offering educational services and programs. Where assignments were made to an area where previous assaults had occurred, a university has a duty to warn students. *Nova Southeastern University v. Gross*, 758 So. 86 (Fla. 2000). Similarly, courts have imposed a duty of reasonable care on universities to take measures to protect students from reasonably foreseeable harm. Reasonable precautions

such as site risk assessment, safety orientation programs, warning statements, and directions concerning housing and transportation arrangements are advised when undertaking such programs. *See* William P. Hoye & Gary M. Rhodes, “an Ounce of Prevention is Worth...the Life of a Student: Reducing Risk in International Programs,” 27 *J. Coll. & University Law* 151 (2000).

Given the risks of student off-campus activities inherent in student life at the modern university and cast against the Millennial parent’s high expectation for safety, the university should anticipate greater litigation for student injuries or deaths. The Millennial parent’s conception of foreseeable risk has been framed by anxious parents who have sought to provide a sheltering environment in which to raise their children. They may expect a measure of control and precaution to be observed by the university which is neither realistic nor educationally sound in promoting maturation and independent judgment. Life inherently requires risk assessment in any situation. The university is set between Scylla and Caribides. - engaging in over-enforcement or under-enforcement of its policies - each of which may lead toward imposition of a duty. In attempting to address this gap in perception between parent and institution, universities may be well served to specifically advise parents of risks associated with off-campus activities. Too often universities shy away from involving parents in student decision-making. Students are frequently risk tolerant. Parents are frequently overcautious. Students generally avoid difficult conversations with parents. Parents often want to know too much. Without jeopardizing student privacy and independence universities can play an important mediating role in assuring that there is sufficient information in parental communications regarding known risks to alert parents to engage in conversation with their student. The Cleary Act should teach us that parents expect to know the incidence of crime on campus. Universities would be well served to audit such risks with a view toward remedying potential problems or taking precautionary measures to warn students. Universities might well ask if a parent would view a risk as ordinary, inherent, or manageable. If it is reasonably manageable what precautionary measures might be taken to avoid it? Generally, universities are reluctant to describe risks in their environment to parents as consumers. Reputation, market position, and image may suffer with disclosure of such information. Moreover, even the best risk assessment can miss the mark. But if the gap between parental expectations and the reality of off-campus life is closed to view, universities can expect a parental hue and cry to be raised when problems arise. If the courts have acknowledged that

most dangerous situations, voluntarily undertaken off-campus, should not result in liability unless the university affirmatively acts to sustain actual reliance on its actions, then parents will be well served by knowing the limits of university control and supervision. If this student generation often seeks advice from their parents, parents should be empowered to engage them as adults in thinking through the risks and opportunities.

Gavin Henning has recently advanced a new model for defining the relationship between colleges, students, and parents. (Henning, 2007) The *Consortio Cum Parentibus* model suggests that “[a]s recent changes in higher education have reshaped the relationship between colleges, students, and parents, so too have the rights and responsibilities of each group.” (Henning, 547) He advances several tenets, or characteristics, to guide the implementation of such a model. “1. Colleges, students, and parent are partners in students’ education, all adhering to basic legal and ethical principles. 2. Colleges are not omnipotent insurers of students’ safety and a safe environment but do have reasonable safety duties. 3. There should be a focus on decision-making, accountability for decisions, and the implications of decisions. 4. Parents are actively involved in their student’s education, but the student’s right to self-determination and autonomy should carry more weight than the parental right to know – unless there is an explicit risk of serious injury. 5. Colleges can provide assistance in the parent-student relationship by teaching both students and parents how to facilitate autonomy and communication.” (Henning, 553-554) The Millennial parent and the college can find agreement on the need for educational intervention and mentoring of young adults within a model that articulates shared but defined responsibilities. The university who invests in educational responses rather than administrative case handling of student misconduct will appeal to parents and students need to understand the consequences of untoward actions and learn from them.. In fact, in regard to alcohol education, studies seem to confirm “that accurate parental awareness of their student’s use and honest dialogue about alcohol use may serve as mediating factors in decisions about alcohol consumption.” (Wheeler and Kennedy, 30)

Robert Bickel and Peter Lake writing in their book, *The Rights and Responsibilities of the Modern University*, advocated the application of a “facilitator university” model to address questions of safety and security on campus. “In the rush to resist law and blame or distance themselves from students, colleges lost sight of important opportunities to build safer campus environments and close the distance between administration/faculty, students, and even the law

itself. It was bad social policy and a losing legal strategy to resist partnerships with the law....A principal goal of the facilitator university is to identify and manifest shared responsibility. It means that students must acknowledge their critical role in protecting their own and other students' safety." (219-220) But this post - *Furek/pre-Virginia Tech* analysis did not take into consideration the rise of the "over-parenting" phenomenon. The facilitator model may be forced to acknowledge that parents are now a part of the equation of shared responsibility. Defining their appropriate role may mean that universities enlist the law and student development theory as a way of articulating and structuring that role. While acknowledging that colleges have to take into consideration the practices and behaviors of younger people, the law still holds students to a standard of reasonableness applicable to the rest of society. Similarly the university is held to standards applicable to businesses in the assessment of their duties. What may be foreseeable to an overly involved parent does not generally correspond to a court's conception of actual foreseeable risks. Although an examination of legal duties would be an inappropriate way of conducting a parent's orientation, "a legal paradigm that asks colleges to exercise reasonable care for student safety—and asks students to be accountable when they are at fault- is equitable, balanced, safer, and contributes to a sense of community." (221) Parents need to understand and appreciate this delicate balance if their students are to grow in autonomy and independence. The parent, who engages their student in conversation about accountability for acting reasonably in reciprocal relationships, rather than intervening to support a one-sided student perception of harm and rights, reinforces a student developmental model that will assure success in the larger sense of enriched human relationships and better communities. In this way the work of educating parents to the real aims of a university education becomes important and necessary work.

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