

# Dean & Provost

Practical Advice and Strategies for Academic Leaders

VOLUME 18, ISSUE 11

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#### 2015 Winner

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## Academic Affairs

### Use Peter Drucker's framework to hire for mission

By Martha Geaney

Management search and hiring processes in higher education are costly, time-consuming, lengthy, and in a constrained budgetary climate, not initiated unless necessary. Therefore, it is critical that candidates, when offered a position, are ready to commit. Academic affairs search committees and the hiring manager, whether it is the president, provost, or dean, typically seek qualifications that encompass degree level, scholarship, number of years of experience in an administrative role, and potentially experience in a specific area that is an initiative of the hiring institution. These laudable

**Continued on page 4.**

## Community Colleges

### Follow this advice for an effective guided pathways program

By Joan Hope, Ph.D., Editor

NEW ORLEANS — Guided pathways have led to increased completion numbers for community colleges that have implemented them. The pathways provide students with a clear map to completion. But just providing a list of courses for students to take is not enough. Effective guided pathways require “long-term, large-scale institutional change,” said Kay McClenney, senior advisor to the president and chief executive officer at the American Association of Community Colleges.

McClenney introduced a panel of officials at colleges that have implemented pathways at a session at the AACC annual convention. Their advice for successful pathways included:

➤ **Make the pathways initiative comprehensive.** “It can’t just be the flavor of the day,” said Eduardo Padrón, president of Miami Dade College. Sophisticated and robust technologies need to be incorporated to enable students to individualize their completion paths. The right data must be

**Continued on page 6.**

## Professor arrested for drug sales

A professor at Oakland University in Michigan has been arrested in connection with operating a drug operation out of his home and providing drugs to students, according to Local 4 News. Joseph Schiele, a business professor at Oakland University, was charged with seven felony counts, including possession with intent to deliver.

Campus police officers received two anonymous tips regarding the operation, both tips relating to parties at the professor's home. Because the events occurred off campus, campus police handed the tips over to local police officers, who investigated the allegations and found ketamine in the professor's home. ■

## Yelp reviews go viral

A dean at Yale University is facing backlash from her students after offensive Yelp reviews went viral, according to the campus publication *Yale Daily News*. The reviews have been the subject of student gossip for months, according to

the campus publication, and feature offensive statements deriding patrons of certain establishments as "uneducated" and "low class."

In light of the reports of students unhappy with the reviews, the dean emailed students in Pierson College to apologize, stating, "I have learned a lot this semester about the power of words and about the accountability that we owe one another." ■

## Study released on sexual assault

The Association of American Universities has released a report on combating sexual assault and misconduct on campus. The report is a follow-up to the 2015 climate survey that anonymously interviewed more than 150,000 undergraduate and graduate students about their experiences regarding sexual assault on campus. The new study followed up with institutions from the original study to determine how often campuses survey students about sexual assault and how often the campuses update their practices.

All 55 institutions surveyed said they had surveyed students on

sexual assault at least once since 2013, and 87 percent of those institutions said that the surveys had led to fresh conversations about sexual assault on campus.

Read the full survey at <http://bit.ly/2oYxggs>. ■

## Low grad rates for student-vets

Many veterans who attend college or university on the GI Bill do not graduate with degrees. The Hechinger Report found that an average of only 15 percent of full-time student-veterans receiving GI Bill benefits graduated from a community college with a two-year degree in 2014, with part-time graduation at 7 percent. Both the full-time and part-time graduation rates for student-veterans were lower in 2014 than the national average for nonveterans.

The report stated that information on graduation rates for student-veterans at four-year institutions is difficult to obtain, but the average rate is likely below the national average as well.

Read the report at <http://bit.ly/2pXMySn>. ■

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## Support your library to boost cultural offerings on your campus

By Dawn Z. Hodges, Ph.D.

Unless you have been fortunate enough to have had a philanthropist bestow upon you the monies to build an art gallery or you are at a large state university with tons of funds, you are probably like me: You have little to no art at your college. And so, we rely on our library to be the center of all things art. If you've read my series *Leadership is an Art*, you know I love art and what it can teach on many levels (see Nov. 2014, Feb. 2015, and June 2015 issues).

And the fact that I happen to supervise the libraries makes me an awfully proud pumpkin when I see all the things the librarians do in ours. And so, I encourage you to sit back and enjoy the show at your libraries. Here are some of the things our librarians support:

- > Provide an annual art show of student and faculty paintings and drawings. In addition, at the show, they provide a large white sheet of paper and invite all students to "draw something." The work our own students and faculty produce is simply amazing.
- > Offer an annual poetry and prose reading of student and faculty original works.
- > Decorate the library for many occasions and offer homemade goodies to entice students into the library for a variety of workshops. Hey, their food IS art!
- > Host a "spooky storytelling contest" at Halloween. It's a highlight of the year.
- > Hold workshops on Pinterest and other creative and useful applications.

Here's how you can support your staff:

- > Attend as many of the activities as you can. It takes very little time to walk through the art shows.
- > Send them notes of thanks. Everyone needs to be appreciated.
- > Make sure they get recognized. Talk about what they are doing with the senior staff.
- > Champion their budget being funded to the fullest amount that you can. The library supports every academic unit of the college. It is of particular importance to your new programs.
- > Don't forget the library when it comes time to spend furniture, fixture, and equipment money: FF&E is what we call it. The library probably has the highest volume of visitors that come through its doors on a daily basis. Its chairs and computers get

worn out faster than in other locations throughout the college.

Our main campuses are in small towns where students are not often exposed to much culture. In art appreciation courses, they either have to take virtual tours of art galleries or travel 40 miles to downtown Atlanta to visit museums and galleries there. Students from some of our rural counties have never traveled outside of their counties.

Anything we can do to expose our students to art

is more than what many of them have ever been exposed to. I am proud of our library taking on the task of being the cultural center of our college. It is not something the librarians *have* to do. It is something they do because they are energetic, creative professionals of all ages who see this as a passion and a mission.

I hope this article is helpful to those of you who are in small towns or who lack money for what you would like to do to expose your students to art. At any rate, I have been able to shine the light on another terrific group of employees at all our colleges. The librarians work hard, support the entire academic unit, and serve the community at large. And they take the initiative to do extra things just because they want to. Let's hear it for our librarians! ■

### About the author



Dawn Z. Hodges, Ph.D., is vice president for academic affairs at Southern Crescent Technical College. Her regular column, "The Reflective Leader," appears monthly in *Dean & Provost*. Email her at [dhodges@sctech.edu](mailto:dhodges@sctech.edu). ■

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qualifications are ones that an institution's officials would agree are required.

However, it seems reasonable to affirm that the candidates who fit the required criteria must also be mission-oriented and willing to embrace a management culture, especially if the recruiting institution is a state comprehensive university. A generalized framework, using an adaptation of management expert Peter Drucker's five most important questions to pose with candidates, can determine mission orientation and the potential for a successful conclusion to the search process.

Using Drucker's interpretation of why managers are hired and the centralizing role that mission plays can set the context for the overall purpose of the search committee: to filter and select candidates not only for meeting the hiring matrix categories but also to determine who best suits Drucker's definition of a manager's role.

#### Drucker's definition of a manager's role

Drucker stated that managers are hired for organization and leadership, for accountability, performance, and results. He also stated that mission is an important aspect of management because it focuses the organization on action. Adapting Drucker's five most important leadership questions during management candidate interviews may be helpful to choosing a successful candidate.

#### Drucker's five most important questions

The five most important leadership questions Drucker identified are: What is our mission? Who is our customer? What are our results? What do our customers value? and What is our plan? Table 1 illustrates an adaptation of these questions for dean and associate dean interviews but may be adapted as necessary for other academic management roles.

#### What the answers to these questions may indicate

*What is it about our mission, the university's and college's, that inspires you?* As stated earlier, mission serves a central role in a state comprehensive university as well as drives the strategic plan. A candidate's response regarding mission and the role it plays provides an opportunity to discuss what aspects of the university and college are attractive to the candidate. Candidates who express alignment to the goals and objectives of the mission and can develop and monitor work products that are in alignment with the mission are the most motivated and successful managers.

*What has been your experience with graduate and undergraduate programs? In addition to teaching, what has been the focus of your work outside of the classroom?* The hiring manager and search committee need to understand how the candidate's experiences support specific university initiatives. In the case of my institution, student success initiatives are a focus of the university's strategic initiatives. It is important to know how the program or initiative the candidate developed

**Table 1. Adaptation of Drucker's five most important questions**

<b>Drucker's questions</b>	<b>Adapted for dean or associate dean interviews</b>
What is our mission?	What is it about our mission, the university's and college's, that inspires you? What programs have you implemented that directly supported the mission of your current institution? What was your role in implementing the program? How did your role relate to the institution's hierarchy?
Who is our customer?	What has been your experience with graduate and undergraduate programs? In addition to teaching, what has been the focus of your work outside of the classroom? Provide an example where you worked effectively with other stakeholders within your organization to achieve a result.
What does the customer value?	What do your classroom and specific experiences tell you that students, parents, accreditors, and the external community value? How would you communicate that value to stakeholders?
What are our results?	What were some measures of success? What changed as a result of the programs or initiatives that you led or in which you participated? What management techniques have you used to work with others both within your current unit and across the institution? What have you learned from these experiences?
What is our plan?	How does our mission foster ideas and innovation? What actions would you want to take? How would you build upon our mission and strategic plan? How would you go about requesting funding for these actions and/or initiatives?

and achieved was related to the mission of his current institution. The way in which a candidate describes what he desires to see students achieve tells a story regarding how involved the candidate was with student success initiatives that are critical to outcomes related to graduation rates and enrollments. This is a good time to discuss with the candidate how the initiative was managed and the candidate's role and responsibility.

*What do your classroom and other experiences tell you about what students, parents, accreditors, and the external community value?* In my college, all programs have earned specialized accreditations. Candidates who have had responsibility for developing assessment work products and self-study reports will easily differentiate themselves from other candidates by expressing enthusiasm regarding the value of an accredited program to the institution's customers. If hired as a manager, it will be their responsibility to lead, organize, and produce results that support these efforts.

*What are our results?* Candidates who are enthusiastic about their programs will be able to describe what changed as a result of the programs and initiatives they led. This is an opportunity for the hiring manager and search committee to understand what types of projects and initiatives intrinsically motivate the candidate. The hiring manager and search committee must ask

themselves if the candidate will be able to translate that enthusiasm to the institution's initiatives if they are different from what the candidate has focused upon.

Moreover, the hiring manager and search committee must determine the candidate's work and management style and approach to organizing work.

*What is our plan?* Each candidate has specific reasons for applying to your institution. This discussion can provide insight into the candidate's ability to concep-

tualize and foster ideas that align with the mission: what actions the candidate would want to take. For the hiring manager, it is an opportunity to gain deeper insights into what will engage the candidate and what will motivate him to accept an offer to join the institution and be successful. Moreover, it is an opportunity to gauge whether the candidate's ideas align with the institution's mission and goals.

### Conclusion

Adaptation of Drucker's five questions provides a framework and reference for understanding whether the candidate will meet the elements of Drucker's definition of a manager that aptly describe the culture of most state comprehensive universities, and most importantly, whether the candidate will, at the end of the search process, accept an offer and be successful. ■

### About the author

Martha Geaney is emerita dean of the College of Business at Kutztown University, where she served from 2013 to 2017. She was formerly associate dean of graduate programs and associate professor in Felician University's Business and Management Sciences Division. Her research focuses on leadership, specifically servant leadership, and organizational behavior. *Correspondence should be addressed to marthageaney@icloud.com.* ■

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### Continued from page 1

available for officials and students to make good decisions.

And you can't successfully implement pathways without a culture of success and inclusion. Miami Dade's students are 68 percent low-income, the majority are members of racial and ethnic minorities, and most students work. But all stakeholders must have the same sense of ownership of the pathways project, Padrón said.

Steps Miami Dade officials have taken to support students along with implementing guided pathways include:

- **Making orientation mandatory.** About 90 percent of students attend, and officials follow up with the others. "Based on evaluations, orientation has been a saving grace," Padrón said.

- **Requiring students to take a student life skills course.** It's referred to as the "survival class," Padrón said.

- **Not allowing late registration.** That led to a lot of internal resistance, but allowing students to register late was programming them for failure, Padrón said. Officials added mini-terms to the schedule so that students who miss the registration deadline have another option. "Now no one argues. It's helping students, and we still get them," Padrón said.

- **Implementing a three-tiered advisement process.** Advisors are assigned to every high school in Miami. They help students understand what they need to know to enroll and be successful, and they help the teachers understand Miami Dade's academic requirements. They also invite students to attend summer programs so they can get a taste of college before the fall semester.

When students enroll, they work with professional advisors until they complete 25 percent of their associate degree. Then they move to mentor advisors, who are faculty members. Officials didn't want to force the faculty members to be advisors because that didn't work well, Padrón said. But with incentives, about 450 faculty members chose to be mentors.

Results of the pathway efforts have included Hispanic students graduating at a 16 percent higher rate than the overall student body, and black students graduating at 17 percent higher than the overall rate. Over the past four years, the credit load students take has risen 2.5 percent.

- **Be very intentional about data information strategies.** Lorain County Community College has seen a 48 percent increase in associate degrees awarded since implementing pathways, said

President Marcia Ballinger. Faculty members like to have the choices to teach the hundreds of elective classes that were on the schedule, but so many choices aren't good for students. Emphasizing that students are behind every number in the results helps bring about culture change among the faculty and the front-line student service areas, she said.

LCCC is now building pathways from high school to the bachelor's degree with partnerships with universities and high schools. Officials have built out 31 pathways that enable students to earn a bachelor's degree by age 20 with 80 percent less cost, Ballinger said.

- **Focus on the social justice imperative.** Students need to be able to pursue their goals and dreams, said Guy Generals, president of the Community College of Philadelphia. Generals focused on the social justice imperative when he discussed cutting the number of "boutique" classes with faculty members.

When Generals asked black students from the Center for Male Engagement what the college could do to help black students persist, they told him eliminating the runaround was the most important thing. They cited forms that require multiple signatures. Plus, offices closed at 7 p.m., making it difficult for evening students to visit them.

Steps officials took to support students included:

- **Merging academic affairs and student affairs.** The goal was to align what was happening outside the classroom with what was happening in it.

- **Increasing the number of advisors.** The advisors will be embedded in the metamajors.

- **Creating a first-year experience for health science students.** The program helps students identify career options. About 6,000 students enroll in health sciences each year, and many of them want to go into nursing, but the nursing program accepts only 200 students.

- **Involve the entire campus.** Officials at San Jacinto College bought about 800 copies of *Redesigning America's Community Colleges: A Clearer Path to Student Success*. Faculty and staff members have been discussing it in reading groups, said Chancellor Brenda Hellyer. "There's no part of the institution that won't be touched by the work [of creating pathways]," Hellyer said.

Celebrating success as a campus is also important, Hellyer said. SJC has not fully launched its pathways program, but officials have taken preliminary steps, including getting rid of late registration and redesigning developmental courses, she said. Results have included a 161 percent increase in credentials awarded and a first-to-second-semester retention rate increase from 60 to 85 percent. ■

## Comprehensive student support efforts lead to impressive outcomes

By Joan Hope, Ph.D., Editor

NEW ORLEANS — “In the last 40 years, if you are among the 25 percent of wealthiest Americans, you more than doubled your chance of getting a college degree,” said Timothy Renick, vice provost and vice president for enrollment management at Georgia State University. But there has been little change in the percentage of people in the bottom quartile who earn credentials, Renick said, speaking at a session at the American Association of Community Colleges annual convention.

An increasing number of GSU’s students fall into the demographic who are unlikely to earn degrees. The student population is 65 percent nonwhite. The Pell-eligible population has grown in recent years from 31 percent to 59 percent. Plus, the average SAT score of admitted students has dropped, and the institution has seen \$40 million in appropriation cuts.

But despite these challenges, GSU conferred 30 percent more degrees in 2014–15 than in 2008–09, Renick said.

Besides helping students, student success is good for the institution. With students paying \$9,800 on average annually in tuition and fees, every one-point increase in retention equals \$3.18 million in revenue for GSU, Renick said.

Achieving those results required a major redesign of the institution’s programs and services. Efforts included:

➤ **Reducing summer melt through a texting program.** A bot answers many common questions, so students can get answers any time. Officials follow up on the questions the bot can’t answer and add the knowledge to its base.

➤ **Helping students progress through the enrollment process using a portal.** The portal takes students through about a dozen steps.

➤ **Enrolling high-risk students in summer classes.** In summer 2016, 420 students in a group identified as being at high risk of not persisting enrolled in summer classes. They attended classes with sophomores and juniors, rather than taking remedial courses. “They can begin to see good college behavior modeled,” Renick said. The program cost GSU very little, and, on average, the students finished the summer with seven credits and a B average. The fall-to-spring retention rate for those students rose from 40 percent to 87 percent, he added.

➤ **Creating a career exploration portal.** Students can learn information such as the starting salary in Atlanta for a graduate with a degree in nursing and

the salary difference between a nurse with an associate degree and one with a bachelor’s degree.

➤ **Placing every student in a learning community.** “If something works, don’t make it a program for some students. Make it the way you do things,” Renick said. Students are placed in block schedules of five or six courses based on their metamajor, a set of related majors grouped for the guided pathways.

➤ **Identifying courses that create obstacles.** Officials realized that 43 percent of students made D, F, or W in introductory math. The most successful format was the hybrid class, so now only hybrid courses are offered. Students spend class time working on interactive lessons at terminals. The change has resulted in 35 percent fewer students not making it through the class, Renick said.

➤ **Using predictive analytics for advising.** Officials looked for behaviors that are statistically related to dropping out and found more than 800 of them. If a student does any of those behaviors, an advisor reaches out to him, Renick said. Advisors and students have had more than 52,000 meetings based on alerts. “These were all problems that would have gone undiagnosed,” Renick said.

If students sign up for courses that do not help them with degree completion, an advisor contacts them. Last year, there were more than 2,000 such course sign-ups, Renick said.

Plus, the data show a strong correlation between the first grade a student earns in her major and whether she graduates on time. Advisors now contact students if they make a C or below in that introductory course. ■

### Student support efforts boost minority student completion

Comprehensive efforts to improve the completion rate at Georgia State University have made a particularly big difference for black and Hispanic students.

Since 2011, enrollment for these students has risen, and degree conferral in the science, technology, engineering, and math fields has risen even more. ■

	Enrollment growth	Degree conferral growth
Black	12%	69%
Black male	15%	111%
Hispanic	22%	226%

## DISABILITY COMPLIANCE FOR HIGHER EDUCATION

# QUICK STUDY

An overview of the key topics faced by disability services providers with citations to noteworthy cases, statutes, regulations, and additional sources.

### Faculty actions toward students with disabilities

#### Overview

Faculty members must be informed of approved accommodations and their role in providing them so that colleges and universities can comply with regulations and support students.

#### Key rulings

□ OCR investigated a University of Maryland student's complaint alleging one of his professors didn't allow him to use his approved accommodation of extended time. The university submitted a resolution agreement that included a commitment to notify all personnel involved in the provision, administration, execution, and delivery of academic adjustments to students with disabilities of the obligation to provide academic adjustments in a timely manner. The university also agreed to tell the professor that he had to contact the Office of Accessibility Services if he had questions or concerns regarding the academic adjustments of any of his students. The complainant would have the opportunity to re-enroll in the same course, at no cost. *Letter to: University of Maryland*, No. 03-14-2349 (OCR 11/18/14).

□ OCR investigated a complaint submitted against the Community College of Allegheny, alleging it discriminated against the complainant on the basis of disability. The complainant claimed the college retaliated against him after he reported a faculty member to the Office of Supportive Services for Students with Disabilities because she didn't provide his approved disability-related academic adjustments. OCR was unable to find evidence to substantiate the retaliation allegation because the complainant didn't provide any documentation verifying his complaint. OCR closed the complaint. *Letter to: Community College of Allegheny*, No. 03-14-2359 (OCR 01/16/15).

□ The parent of a Westchester Community College student complained that the college failed to provide extended time on tests in three courses and the use of a calculator in one class. The parent also claimed that in one course, the professor subjected her child to harassment, making inappropriate comments about her disability. OCR found insufficient evidence to support the allegations, and noted that to be in violation of the law, harassment must be more than the mere expression of views that are personally offensive to someone. *Letter to: Westchester Community College*, No. 02-14-2393 (OCR 03/04/15).

□ A business student with post-traumatic stress disorder, bipolar disorder, anxiety, and chronic asthma alleged that Harris-Stowe State University discriminated against her on the basis of her disability when an instructor: (1) stated she should be able to do the work, like her peers; (2) was critical of her in front of her classmates; (3) asked why she could not complete her work; (4) yelled at her because she did not understand an assignment; (5) did not let her speak in class without interruption; (6) told her she should drop the course and accept an F; and (7) did not let her leave the class to take a breathing treatment for her asthma. The professor denied the allegations, and OCR found insufficient evidence that they were true. *Letter to: Harris-Stowe State University*, No. 07142271 (OCR 03/23/15). ■

#### What You Should Know

- Faculty members must allow students the use of approved accommodations.
- An institution should inform faculty members of their obligations to provide approved accommodations.
- A complainant must document allegations made to OCR.
- Harassment must be more than the mere expression of views that are personally offensive to someone. ■

## AT A GLANCE

### A Review of This Month's Lawsuits and Rulings

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## ADULT LEARNER

### Former employee's suit stalls due to lack of evidence

**Case name:** *Bolanos v. Northeastern Illinois University, et al.*, No. 14 CV 7533 (N.D. Ill. 01/04/17).

**Ruling:** The U.S. District Court, Northern District of Illinois granted summary judgment in favor of Northeastern Illinois University.

**What it means:** Title VII does not cover all harassing conduct.

**Summary:** Not long after Northeastern Illinois University graduate student Kimberly Bolanos began working in the Registrar's Office, she reported employee Martha Narvaez Vasquez as late for work. She also reported that other employees were submitting inaccurate time cards.

In 2012, Avril Murray was hired to work under the supervision of Bolanos.

In September 2013, Bolanos had a confrontation with Murray regarding a student. Murray was not disciplined, but University Registrar Daniel Weber issued a reprimand to Bolanos, maintaining that he held supervisors to a high standard.

In November, Bolanos and fellow supervisor Verla Grays had a confrontation, but neither was disciplined for it.

In January 2014, Bolanos allegedly yelled at employee Narvaez Vasquez for being late. Weber then instructed Bolanos to stop monitoring employees that she did not supervise. However, Bolanos purportedly

ignored that order.

Not long after, Vazquez made an unspecified report about Bolanos to campus police. Following an investigation, Campus Police Chief James Lyon decided Bolanos was a threat to others.

The university president notified Bolanos he was seeking her termination.

After a hearing requested by Bolanos was held in May, the panel concluded Bolanos exhibited threatening behavior. She was fired a few weeks later.

Bolanos filed a suit claiming gender and racial discrimination. NEIU responded with a motion for summary judgment.

Bolanos argued that Murray, Grays, and Vazquez raised their voices and threatened her. But District Judge Rebecca Pallmeyer said there was no proof the alleged wrongdoing was motivated by gender or race. She also explained that Title VII did not cover all harassing conduct.

Bolanos next contended that comments had been made to the effect that "certain people around here are racist." But the judge observed that such comments did not mention any name, and ruled that suggestions that unnamed persons were motivated by race were insufficient to establish a hostile environment.

Bolanos also contended she was subject to unfair treatment because many employees were not disciplined for personal activities, tardiness, and absenteeism, while she had been disciplined for confrontations. But the judge ruled her alleged conduct was more serious than the minor infractions of others Bolanos had cited.

Bolanos also claimed it was her job to enforce university policies. But the judge observed she had defied a direct order to stop doing that with respect to employees she did not supervise.

Judge Pallmeyer granted summary judgment in favor of NEIU. ■

## SEXUAL MISCONDUCT

### Accused student's suit goes nowhere

**Case name:** *Doe v. Baum, et al.*, No. 16-13174 (E.D. Mich. 01/05/17).

**Ruling:** The U.S. District Court, Eastern District of Michigan dismissed a claim that the University of Michigan's use of the term "incapacitated" in defining sexual misconduct was unconstitutionally vague.

## LAWSUITS & RULINGS

This regular feature summarizes recent court or agency records of interest to academic administrators.

Lawsuit court records are summarized  
by Richard H. Willits, Esq.

**What it means:** Given a university's need to be able to impose disciplinary sanctions for a wide range of unanticipated conduct disruptive of the educational process, its disciplinary rules need not be as detailed as a criminal code that imposes criminal sanctions.

**Summary:** In January 2016, a female University of Michigan student filed a complaint with the university's Office of Institutional Equity that fellow student John Doe manipulated her into performing oral sex on him after she became drunk at a party.

After interviewing 23 witnesses about the event, university investigator Christina Kline concluded there was insufficient evidence that the complainant was unable to give valid consent to the sexual contact. The complainant appealed those findings to the university's Office of Student Conflict Resolution, which decided that the investigator had reached the wrong conclusion.

In June, Doe agreed to "permanent voluntary separation," so that his transcript would not indicate he was expelled for violating the sexual misconduct policy.

He then filed a suit that challenged the findings of sexual misconduct. One of his many contentions was that the term "incapacitated" in the university's code of student conduct was so vague that it allowed the appeal panel to project its own conception of what the term should mean.

The university filed a motion to dismiss.

The district judge said that, given a school's need to be able to impose disciplinary sanctions for a wide range of unanticipated conduct disruptive of the educational process, the school disciplinary rules need not be as detailed as a criminal code that imposed criminal sanctions. He then ruled that the term was not unconstitutionally vague, because a person of ordinary intelligence could certainly understand what was meant, since it was defined in the student conduct code to mean "lacking the physical and/or mental ability to make informed, rational judgments." The judge dismissed the claim, finding it was plain that the fact to be proved was that the

complainant lacked the physical or mental capacity to make informed and rational judgments. ■

## DEFAMATION

### Offended prof's suit hits a brick wall

**Case name:** *Dragulescu v. Virginia Union University, et al.*, No. 3:16cv573 (E.D. Va. 12/09/16).

**Ruling:** The U.S. District Court, Eastern District of Virginia dismissed a defamation claim against Virginia Union University.

**What it means:** Defamation consists of factual statements harming the reputation of another so as to either lower her in the estimation of the community or deter others from associating with her. A false statement that someone used coarse language to describe workplace training on a single occasion is not defamatory.

**Summary:** In 2012, Luminita Dragulescu became an assistant professor at Virginia Union University, and accepted renewed one-year offers of employment each year.

In 2013, Department Chair Eva Davis wrote a letter to Dragulescu accusing her of (1) talking disparagingly about the department, (2) having "meltdowns" and temper tantrums, (3) using profanity when referring to a training session, and (4) undermining the mission of VUU by failing to attend a certain program.

Dragulescu filed a defamation suit against the university and Davis, claiming that the specific accusations were false.

The defendants filed a motion to dismiss.

The district judge said the only factual statement in the Davis letter was that Dragulescu had purportedly used profanity when referring to a training session.

However, he said defamation consisted of words harming the reputation of another so as to either lower her in the estimation of the community or deter others from associating with the person referred to. The judge ruled that a false statement that someone used coarse language to describe workplace training on a single

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occasion was hardly inflammatory. He dismissed the claim, stating that the triviality of the alleged incident was demonstrated by the fact that VUU had hired Dragulescu again despite the purported incident. ■

## FREE SPEECH

### First Amendment protection keeps protester's suit alive

**Case name:** *Center for Bio-Ethical Reform Inc., et al. v. Black, et al.*, No. 13-CV-581 (W.D. N.Y. 02/10/17).

**Ruling:** The U.S. District Court, Western District of New York refused to dismiss a suit against the State University of New York at Buffalo.

**What it means:** A university cannot restrict expression because of its message, ideas, subject matter, or content. The public expression of ideas may not be prohibited merely because they are offensive to some, or because bystanders object.

**Summary:** In 2012, State University of New York at Buffalo student organization Students for Life reserved a place on campus for two days in April 2013 to display a "Genocide Awareness Project" produced by the Center for Bio-Ethical Reform Inc., which used photo-murals with large, horrific images to compare abortion to historically recognized genocides. The reserved location was an open space outside a Student Union building where speech activities were routinely allowed to occur.

In March 2013, Director of Student Life Thomas Tiberi informed Students for Life that he wanted to move the display to a remote location. After some discussion, the university ultimately granted permission for use of the original reserved location.

On the first day of the exhibition, Tiberi requested a reduction in the size of the display. However, a CBR employee persuaded the university not to reduce the size of the exhibition.

Later on the first day, a number of counter-demonstrators assembled. Although the photo-murals had been cordoned off with crowd-control barricades, some counter-demonstrators stood close to the barricades and tried to block the exhibition from view.

Throughout the second day, counter-demonstrators blocked the photo-murals from view with signs, umbrellas, and bedsheets. As the counter-demonstration escalated, campus police allegedly refused to stop the obstruction of the images.

CBR and others later filed a suit against Tiberi and the campus police chief that claimed First Amendment violations.

The defendants filed a motion to dismiss, arguing no rights were violated because the "Genocide Awareness" exhibition was a success.

The district judge ruled the "Genocide Awareness"

exhibition was unquestionably protected by the First Amendment.

He refused to dismiss the suit, holding the allegations tended to show the defendants were hostile to the content and viewpoint of the photo-murals. ■

## INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

### Director's power over interviewee belies 'consensual sexting' defense

**Case name:** *Stewart v. Durham, et al.*, No. 3:16-CV-744 (S.D. Miss. 02/09/17).

**Ruling:** The U.S. District Court, Southern District of Mississippi refused to dismiss a suit claiming a department director sent a picture of a nude erect penis to a prospective employee.

**What it means:** Unsolicited sexts are more than an annoyance because they make recipients feel unsafe and degraded.

**Summary:** In November 2015, Erica Stewart interviewed for a job in the Online Admissions Department of Belhaven University. According to Stewart, at some point in her application process, Director Tarold Durham made sexual advances toward her via social media and text messages. Those advances allegedly culminated in Durham sending Stewart a text message containing the words "Can I get something for the interview?" and a photo of a nude erect penis.

Stewart claimed the vacancy was no longer available after she refused his advances. She then filed a suit asserting that Durham was guilty of intentional infliction of emotional distress, and that Belhaven had violated Title VII.

Durham filed a motion to dismiss, arguing there was nothing outrageous about allegedly sending a photo of an erect penis to a person who had been engaging in "flirtatious conversation" with him for weeks.

But the district judge said Stewart had not alleged that the photo sharing was consensual, or that it took place between adults of equal status. He explained Durham had power because he was the director of an office who appeared to have the authority to hire her.

The judge refused to dismiss the claim, stating that a reasonable jury might agree with Stewart that it was outrageous and revolting for a department director to send unsolicited explicit photos in the employment context. He ruled that consent was crucial when it came to penis pictures, explaining that unsolicited pictures and sexts were more than an annoyance because they made recipients feel unsafe and degraded. ■

## Prepare for a successful start to a new presidency

By Joan Hope, Ph.D., Editor

In her first few months as president of Atlantic Cape Community College, Barbara Gaba hasn't experienced any big surprises. That's because she was well-prepared for the position. "I've been in training for many years," said Gaba, formerly the provost of the Elizabeth Campus and associate vice president for academic affairs at Union County College and a charter member of *Dean & Provost's Advisory Board*.



BARBARA GABA

A president Gaba worked for a number of years ago told her, "You could be a president someday." That sparked something in Gaba, and she started thinking about what she would need to know for a presidency. For example, serving in academic affairs, she didn't have a strong background in finance and budgeting. She served on the finance committee for a nonprofit board and built up her skills that way.

Gaba offered the following advice for academic administrators who aspire to be a president:

➤ **Gain experience to prepare for the presidency.** "The job has so many components and pieces," Gaba said. The president needs to know about areas including student services, accreditation, grant writing, external relations, workforce development, finance, and fundraising, she added. If you don't have experience in those areas, get on committees that handle them, she said. A particular area might not be part of your job description, but you can get experience by volunteering.

➤ **Have a mentor.** You need someone who will be your champion and provide you with advice, Gaba said. Her mentor took her to committee meetings and external meetings she wouldn't have gone to otherwise. The mentor sent her articles to read and let Gaba shadow her at events on and off campus. Gaba observed how her mentor interacted with

others and thought of her as a role model.

### Take these steps for a successful launch

When you start a new presidency, Gaba suggests you do the following to get off to a good start:

**1 Plan a listening tour.** Include internal and external stakeholders. The tour will help you form relationships, get to know people, and understand the culture of the college. Gaba's listening tour has included mayors and legislators. The board set up a meet and greet that many external stakeholders attended.

In addition, Gaba hosts pizza-with-the-president events on campus so she can meet students and hear their concerns. Plus, she attends many campus events where she meets faculty and staff members. "You will need these relationships to help you with your job," Gaba said.

**2 Stay focused on students.** "Everything the president does is focused on students and student success. Everything else is secondary," Gaba said. "The real business of the college is students," she added.

**3 Establish a network and connections.** Have someone you can call if you want to talk about a problem or issue, Gaba said. "Stay connected with colleagues," she added. When Gaba attended the recent American Association of Community Colleges annual convention, she went to all the sessions for new presidents. "It's important to establish that network," she said. Few people understand the complexity of the presidency, so a new president needs to get to know other presidents, she added. Gaba also stays in touch with the presidents in New Jersey she already knows and calls them when she needs advice. "We ran into that 10 years ago, and this is what we did" is the type of feedback she values from her colleagues.

With a few months as a college president behind her, Gaba is eager to address challenges the college faces. In an area where many people have lost jobs because of casinos closing, the college is an important tool for workforce development, she said. ■

### Nominate a leader

Who would you like to see interviewed for our Leadership feature? Nominate yourself or a colleague.

Email Editor Joan Hope at [jhope@wiley.com](mailto:jhope@wiley.com) to make your suggestions. ■

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