

# Student Affairs Today

Best Practices and Strategies for Student Affairs Professionals

VOLUME 14, ISSUE 8

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## COVER STORY

### Help female student-veterans feel connected on campus

When most people think of a student-veteran, they likely picture a male student. But the face of the typical student-veteran is changing. As the number of veterans on college campuses increases, so does the number of female student-vets.

And student-veteran programs designed to meet the needs of men usually don't make the grade for women.

That's according to research by Susan Iverson, assistant professor of higher education administration and student personnel, Kent State University.

Female student-veterans often feel isolated and disconnected on campus. But student affairs professionals can foster a sense of connection for them through programming and services tailored to meet their unique needs, Iverson said. **Full story, see page 3.**

#### Follow tips

Get expert advice on how to successfully engage female vets on your campus. **See page 3.**

## HIGHLIGHTS

### Sometimes it's OK to modify discipline procedures

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### Develop risk management plans now for the unexpected

Get crisis planning advice from Dennis A. Pruitt, vice president for student affairs, vice provost for academic support and dean of students at the University of South Carolina. **Page 12**

## BRIEFS

## Learning center promotes bike riding

Promoting bicycle transportation can help address parking and traffic problems on your campus. But you'll likely have more success if you address concerns of students and staff members who feel intimidated by the idea of riding a bike to campus.

That's why Boise State University created the Cycle Learning Center, reports [www.kboi2.com](http://www.kboi2.com). The center offers repairs, rentals, storage, and classes in bike repair and fitness. The center is run primarily by student-workers. ■

## The ED discovers reporting discrepancy

Make sure to properly record all campus crimes in your annual crime report or risk federal scrutiny.

The University of Northern Iowa may face sanctions after the Department of Education's review uncovered a drastic underreporting of alcohol-related crimes in 2007. The ED also said the institution failed to properly notify students and employees about the availability of its annual crime report in 2006 and 2007. The ED is weighing whether to issue the institution a fine or take a different punitive measure. ■

## Minor NCAA violation brings major fine

Your institution can avoid costly fines by ensuring your athletics staff members know appropriate behavior during an NCAA investigation.

The NCAA recently fined the Georgia Institute of Technology more than \$100,000 for officials' "combative" and "confrontational" conduct. The NCAA was investigating reports that a football player had accepted a gift of \$312 in merchandise from a clothing store. The NCAA said Georgia Tech officials allowed him to continue

playing despite knowing he was under investigation. ■

## Corporate sponsors help fund programs

If the poor economy continues to impact your institution's funding and students' ability to pay, corporate partnerships can provide scholarships and support campus programs.

In exchange for becoming Colorado State University's exclusive beverage provider, Coca-Cola is funding scholarships and facilitating student exchanges with institutions in China. ■

## ASSESSMENT ADVICE

### Know when to steer away from focus groups

**Q** How do we know when focus groups should not be included in our assessment process?

**A** Don't use a focus group when you're asking for sensitive information, you can't ensure confidentiality, or group discussion could intensify a conflict. Also avoid focus groups if a different method can produce the same data at a lower cost.

Adapted from *Assessment Methods for Student Affairs* by John H. Schuh and Associates, published by Jossey-Bass, an imprint of Wiley. To order, go to [www.wiley.com](http://www.wiley.com).

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? Email the editor at [cmccarthy@wiley.com](mailto:cmccarthy@wiley.com). ■

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## Meet unique, overlooked needs of women student-veterans

Female student-veterans have unique, but often overlooked, needs. That's according to research by Susan Iverson, assistant professor, higher education administration and student personnel at Kent State University. She's a former student affairs administrator.

"Women veterans on campus face challenges dealing with VA services," Iverson said. Respondents to the study also reported that they received no respect or recognition for their service, contributions, experience, or role in the military, she said.

"These struggles extend to the college campus. Participants pointed to how, in the service, the chain of command benefits men more than women, and that there can be subconscious concerns about whether or how the campus will support them," Iverson noted. "They also identified specific ways in which their campuses failed to support them, both administratively and among their undergraduate peers. Feelings of isolation were further amplified by not feeling a sense of connection with fellow veterans."

One participant said: "When you mention a veteran, [people] don't identify a woman." Many say: "Oh, I didn't know you were in the service; you don't look like you were."

Many female student-vets also struggle with single parenting. They face social expectations to be primary caregivers, and criticism for leaving their children to serve in the military, Iverson said.

Student affairs professionals can help these women feel connected and supported on campus, according to Iverson and Rachel Anderson, KSU's adult and veteran services center director. They recommended offering programs and services such as:

- ✓ **Child care, especially for single parents.** Parenting classes, child care referrals and peer mentoring prove particularly appealing to female vets overwhelmed by single-parenting responsibilities as they return to civilian life, college and their families.

- ✓ **Career counseling.** Teach female veterans how to negotiate wages and benefits. And educate them about pay inequities for women. They may be unaware of those disparities, because the military has standardized wages and benefits, contrary to the civilian sector.

- ✓ **Support groups just for female vets.** Female counselors who understand post-traumatic stress disorder and the military should facilitate.

- ✓ **Social networks.** A Facebook page can help female vets deal with emotions related to trauma and war.

- ✓ **Coursework sections for veterans only.** It helps vets meet each other and provides a safe first step in the academic world.

To offer similar programming on your campus, collaborate with various programs and units such as first-year experience; adult student orientation; women's, multicultural and LGBT centers; black studies; and disability services. Partner with off-campus agencies, such as community nonprofits, veterans' clinics and county veterans' services. Ask your institution's VA certifying official how you can help vets transition onto your campus, Anderson advised.

KSU's Center for Adult and Veteran Services collaborates with the Women's Center to offer programming geared to female vets, including:

- **Discussion-based programming.** This is centered around books, such as *Powder: Writing by Women in the Ranks from Vietnam to Iraq*, and movies, such as *Lioness*, about the first women to go into direct ground combat.

- **Female student-vet staff member.** She initiates outreach to female vets on campus.

- **Guest speakers.** This included Shoshana Johnson, a black female prisoner of war.

- **Community service opportunities.** They can volunteer at a local homeless shelter for female vets.

- **One-stop shop.** This unit processes all veterans' benefits and houses support services. "The benefits of having that kind of synergy impacts the success of veterans and improves enrollment," Anderson said.

And remember, "environment influences attitudes. Address the sociocultural and organizational practices that produce discrimination, marginalization and isolation," Iverson said.

Research shows leaders and managers convey what's acceptable and tolerated in an organizational culture, Iverson said. Student affairs professionals should "set expectations for a campus culture that will not tolerate sexism or heterosexism and cultivate an inclusive environment for *all* student veterans," she added.

Anderson agreed. "Campuses can help inform and educate staff, advisors and students about the role of women in the military," she said. Many people don't realize women serve in combat and as a result suffer from PTSD — and it is not just from sexual assault.

Finally, have patience as you attempt to engage female veterans. "It can be very frustrating to offer programs and have little to no attendance. However, it is important to publicly provide space for women to network and find support with other women with similar experiences," she said.

Contact Iverson at [siverson@kent.edu](mailto:siverson@kent.edu) or Anderson at [raanders@kent.edu](mailto:raanders@kent.edu). ■

## Sometimes it's OK to modify discipline for students with psychological disabilities

By Allan L. Shackelford

When students' psychological disabilities result in behavioral misconduct, they usually did not intend to cause problems or create disruptions in the campus environment.

In *Disability Compliance for Higher Education* (see Feb. 2011 issue, p. 3), I suggested that in certain circumstances, you should use modified disciplinary approaches for students with psychological disabilities.

Subsequently, I was asked about alternative models that might be useful in particular situations. There is an important question that needs to be considered: Can your institution accomplish what is in the best interests of students within the context of your current disciplinary system, or do you need modifications or alternative approaches?

In its 2003 *Letter to Gonzaga University*, the Office for Civil Rights stated that it "does not generally question [an institution's] decision on whether or not to impose or continue disciplinary action, provided that [the] decision is based on legitimate, non-discriminatory reasons."

Student conduct and disciplinary codes must, therefore, be applied in a manner that does not result in more favorable treatment of students who do not have disabilities. While an institution is not required to alter academic or behavioral standards to accommodate student disabilities, OCR has indicated that there is "no inherent reason" against using modified or alternative conduct and disciplinary processes that may be of particular benefit to students with psychological disabilities.

OCR also stated, in its 2001 *Letter to Woodbury*

*University*, that institutions can legally view students' disabilities as "pertinent to whether there are grounds to mitigate the penalty." Some psychological disabilities include functional limitations that cause students to benefit from alternative approaches. And related accommodations may be helpful at various points in the process.

Modifications might include having disability services professionals provide advice or even handle certain disciplinary processes; arranging delays or breaks

during a hearing to afford a student more time to absorb the nuances of what is occurring; or creating specifically targeted, alternative sanctions.

It might also be appropriate to require a student to participate in a practice session or allow the student's counselor to be present to explain what is happening.

Alternative models to consider include mediation, administrative hearings and restorative justice:

- Mediation provides a nonconfrontational approach and requires a neutral fact-finder.
- Administrative decision-making is a more private process; does not involve other students; and provides flexibility in determining the appropriate response and opportunities for appeal and follow-up.
- A restorative justice model is now used by a number of institutions for all students, but this can be time-intensive. However, it can be an especially effective approach for students who have difficulty understanding societal standards or engaging in social reasoning. That's because one of its major objectives is the development of personal and social responsibility within an inclusive environment. ■

### About the author

Allan L. Shackelford is an attorney and a higher education consultant who has presented to national audiences on various higher education topics. Email him at [allanshackelford@yahoo.com](mailto:allanshackelford@yahoo.com). ■

### Follow tips for handling student conduct code violations

When students with psychological disabilities break the student conduct code, try following these steps, recommended by Allan L. Shackelford:

- ✓ Refer all students who appear to pose a clear and immediate threat of harm to others to your behavioral or threat assessment team, regardless of your disciplinary model.
- ✓ Take extra steps to educate students with psychological disabilities about your rules and limitations. Use alternative forms of communication and training to teach them how to behave appropriately.

✓ Provide training on how to recognize and control behavioral meltdowns and engage in alternative processes. Include faculty and staff members in student life, residence life, student conduct and campus safety/security.

✓ Consider modifications to the disciplinary process and alternative approaches, or mitigating sanctions, on a case-by-case basis.

✓ View your sanctioning process as a potential opportunity to connect students with academic or counseling resources they may not have previously used. ■

## Take mystery out of accreditation process

If you'd like to become better prepared to handle the dreaded accreditation process at your institution, you first need to understand the process so you'll know what to expect.

Barbara Brittingham, director and president for the Commission on Institutions of Higher Education for the New England Association of Schools and Colleges; and Beth Sibolski, president of the Commission on Higher Education for the Middle States Association of Colleges and Schools, provided an overview of the goals of accreditation and the process for achieving it. They spoke at a recent Society for College and University Planning Annual International Conference.

Make sure you and your staff members understand the accreditation process so you can contribute effectively when your institution is reviewed. And, if you serve on campus committees involved in planning, be sure the strategic planning and accreditation processes complement one another.

Unlike most accreditation systems in the rest of the world, the regional accreditation system in the United States is nongovernmental and self-regulatory. The process includes peer review, which usually takes place on several levels. Since the GI Bill in the 1950s, a link between accreditation and federal financial aid has existed, Brittingham said.

Brittingham and Sibolski compare strategies and best practices with their peers in the International Network for Quality Assurance Agencies in Higher Education.

The United States has six accreditation regions: Northwest, Western, North Central, Southern, Middle States and New England. Regionally accredited institutions vary widely in their missions, structures and student populations. They can be public, private, nonprofit or for profit. Some have specialized program offerings, while others are more comprehensive. The mission can include teaching, research and service.

Accreditation helps ensure an institution's quality improvement and quality assurance, based on standards set by the accrediting body. Standards are defined as "an articulation by the higher education community of what a college or university must do in order to deserve the public trust," Brittingham said.

Each region's standards have different but similar wording, Brittingham and Sibolski said. The accreditation process includes five phases, Brittingham said:

**1. State approval.** States certify higher education institutions to operate.

**2. Eligibility for accreditation.** The accrediting agency confirms that the institution appears to meet

the general standards that would make it acceptable for accreditation.

**3. Candidacy.** This stage can last no more than five years.

**4. Accreditation.** An institution's first accreditation is for five years, and then reaccreditation occurs in 10-year cycles.

**5. Interim and other reports.** These are required during the 10 years of the accreditation period. All institutions file annual reports, which are usually statistical, Sibolski said.

They must also file reports on substantive changes initiated by the institution. Those include programmatic changes. The 530 institutions in the Middle States region file 225–250 substantive change applications a year in recent years. "What does that tell us? There's a lot of change going on out there in higher education," Sibolski said.

If a problem is identified, institutions must also file follow-up reports about the issue. Officials usually consider needing follow-up as negative, but the goal is to not have the problem the next time, Brittingham said.

During each accreditation period, institutions must go through a comprehensive evaluation. That includes the following steps:

- **Self-study.** This must be completed in light of the institution's mission. It is to evaluate the institution based on the standards set by the accrediting body. In the New England region, it cannot be more than 100 pages long. Keeping it to that length helps institution officials think about what is really important, Brittingham said.

- **Visit by a team of peers.** They are deputized by the accrediting body to validate the self-study.

- **Decision by peers and public members.** It is a federal requirement that a certain percentage of the commission that makes the decision do not work in higher education.

*To learn more about accreditation, check out the book, Planning and Assessment in Higher Education: Demonstrating Institutional Effectiveness by Michael F. Middaugh. To locate this and other Wiley resources, go to [www.wiley.com](http://www.wiley.com) and type the book title into the search box.* ■

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## Design pre-emptive social media policies for student-athletes

Student-athlete posts on Facebook or Twitter can be a potential minefield. In fact, you may be tempted to ban athletes' use of social media in an attempt to reduce negative publicity for them and your institution. But that's probably not the best policy, according to Hal Maxfield, a partner in the Cavitch, Familo & Durkin law firm in Cleveland, Ohio.

He gave the National Alliance of Two Year College Athletic Administrators convention attendees a heads-up on what social media policies make sense for colleges and universities.

The NCAA doesn't restrict athletes' use of social media. But Maxfield cited numerous examples of athletes misusing Facebook and Twitter. One student-athlete's post revealed he paid people to write his college papers, and a professional athlete offended many people when he sent what was perceived to be a racist message.

Other common practices that bring negative attention to colleges include athletes' use of profanity or unnecessary "smack talking" after games, Maxfield said. And defamation — derogatory comments that aren't true — can result in lawsuits where the defendants don't need to prove damages, just that the comments were publicized, he added.

But consider the First and 14th amendments before you ban social media, Maxfield said.

The First Amendment is a potential roadblock for public institutions, but private colleges can ban athletes from social media. However, a better strategy is for both private and public institutions to design policies where student-athletes agree to limit their use of social media, Maxfield said.

The 14th Amendment, ensuring equal protection under the law, is a second potential roadblock for restricting social media. For example, it would be best to not have gender-specific policies regarding your athletes' use of social media. And all teams should have to adhere to the same social media policy, so individual coaches shouldn't come up with separate policies.

To help ensure your policies are carefully crafted, involve your campus attorney, Maxfield said. Have athletes sign the policy when they arrive on campus, and annually thereafter. "If student-athletes already under scholarships refuse to sign the policy, look for other provisions in your student or athlete code of conduct that might require them to sign," Maxwell said.

"A couple of universities have banned social media for anyone on a team, and that hasn't been attacked in the courts yet," he said. "But that policy doesn't make student-athletes happy." And whether you win or lose in court, lawsuits are very costly, so he doesn't recommend that strategy.

Contact Hal Maxfield at [hmaxfield@cavitch.com](mailto:hmaxfield@cavitch.com). ■

### Watch for social media pitfalls

Attorney Hal Maxfield recommends you watch for these potential red flags regarding your institution's social media policies:

- Your institution receives a letter from The Foundation for Individual Rights in Education, a watchdog organization championing free speech in higher education. FIRE warned that campus officials at some universities could face personal liability if they violate students' right to free speech by banning them from social media.
- You don't have a policy addressing athletes' use of social media.
- You can't withdraw athletic scholarships as a consequence for social media misuse.
- Student-athletes refuse to sign your social media policy. "In that case, you don't have to allow them to participate in your programs," Maxfield said.

Some major universities outsource the monitoring of student-athletes' social media use, Maxfield said. Vendors charge up to \$5,000 annually for the service. Others assign monitoring duties to an athletics staff member. But before penalizing players for negative use of social media, clearly define what's expected.

A social media policy for student-athletes should include these essential statements, Maxfield said:

- ✓ Participating in athletics and receiving a scholarship are privileges that can be withdrawn if a player doesn't abide by the social media policy.
- ✓ Student-athletes consent to the loss of their right of free speech by signing the policy.
- ✓ Banned posts are those that include profanity; lewd language; discussing or showing inappropriate behavior; and any that bad-mouth the institution, employees, teammates, officials or fans.
- ✓ Discriminatory or derogatory posts will result in penalties.
- ✓ No private information or photos can be posted.
- ✓ Any posts that embarrass the institution are forbidden.
- ✓ Always protect the image of your school and team. Also consider including these additional points:
- ✓ No tweets allowed on game days or the day after or during the season.
- ✓ Athletes must "friend" the official assigned to monitor social media. ■

## Put your unit's vision into action

Vision is a key differentiating factor between leaders and managers. Vision is based on your values and impacts your future as well as the futures of your student affairs staff members.

It helps to put your vision in writing. Start by answering these questions:

- What do you want your "ideal self" to be experiencing in the future? What is your vision as it relates to that future?
- What is your unit's vision? Is there alignment?
- Do you act as a symbol of your vision?
- How does your vision reflect your values?
- How could you communicate this vision to others?

A vision helps you take action toward reaching the future you want.

Leaders use this mental image as power or energy to fulfill their leadership roles and responsibilities and to inspire others. A powerful vision provides clear direction motivating movement forward.

As a student affairs leader, you can align people to support your unit's vision. The way you communicate the vision serves as a symbol of its authenticity.

Leaders are central cheerleaders for the vision. You must work diligently to ensure stakeholders know where the vision is going and specifically how it affects them.

Discuss the vision and ask for their insights so it's real to them.

You can have multiple, overlapping visions, such as a personal and a professional vision. But, to ensure success, you must connect them. Within an institution, different divisions may have different visions, but you must share and adhere to an overriding, dominant vision. Be aware that your dominant vision can cause changes to other visions at any time.

Visioning involves creating and communicating the direction of your unit as it impacts every stakeholder, especially staff members and students. A vision statement in your strategic plan or on your website must find its way into the behaviors, attitudes, purpose and hearts of staff members and students. Education, training, questioning and communicating will bring the vision to life.

A meaningful vision provides an ideal for which to strive. It provides a basis for action and the motivation for creating and committing to your direction. Being mindful of your vision is crucial for it to have an impact on your work and life.

*Adapted from Practicing Organization Development: A Guide for Leading Change, 3rd ed., edited by William J. Rothwell, Jacqueline M. Stavros, Roland L. Sullivan and Arielle Sullivan. For information on this and other Wiley products, visit [www.wiley.com](http://www.wiley.com). ■*

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## Did a college violate a student's due process rights?

Francesca O'Neal was dismissed from Alamo County Community College after she threatened to kill one of her professors. She sued in state court claiming he injured her reputation.

O'Neal alleged the professor refused to allow her to choose "abortion" as a topic for a speech assignment in the Public Speaking class he taught. She also claimed he gave her a "B" instead of an "A" in retaliation for questioning him about the restriction on the topic.

O'Neal's complaint contained language the defendants perceived as threatening. For example, she stated that as a former soldier she knew how to handle weapons and that "when I see a gay, male, Hispanic, or hear vocals that are consistent with that demographic, I experience a knee-jerk reflex to shoot him."

After a due process review, ACCC determined O'Neal violated the Student Code of Conduct "by threatening and/or stating her desire to kill her teacher." As a result, she was withdrawn from her classes.

She was given advance notice to submit written materials in her defense. ACCC officials explained the review was based on written materials only because they believed O'Neal posed a safety threat.

After the state court dismissed O'Neal's claims against the professor, she filed suit against ACCC in federal court. She alleged the college expelled her in violation of her due process rights.

*O'Neal v. Alamo Community College District*, No. SA-08-CA-1031-XR (W.D. Tex 01/27/10).

### Did the college violate the plaintiff's due process rights?

**A. Yes.** Students facing disciplinary dismissal from a public college or university are entitled to a quasi-judicial hearing, where they can be represented by counsel and question their accusers.

**B. Yes.** Students facing disciplinary dismissal must be evaluated by a mental health expert before they are withdrawn from a public educational institution.

**C. No.** The plaintiff received notice of the charges against her and an opportunity to present her case, which is all the due process required when a student poses a threat to the campus community.

**D. No.** Long established case law holds that students who pose a threat to the campus community are not entitled to due process before a suspension or dismissal.

Correct answer: C.

The judge explained that "for tax-supported university students facing expulsion, due process generally requires notice of the specific charges and grounds which, if proven, would justify expulsion, and a hearing."

However, because the facts in this case supported a belief that O'Neal posed a threat to others, the court held that ACCC acted reasonably and afforded her all the due process required before expelling her.

*Editor's note: This feature is not intended as instructional material or to replace legal advice.* ■

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## At a glance

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## HARASSMENT

# University not liable in sex-harassment complaint

**Case name:** *Hyman v. Cornell University, et al.*, No. 5:10-CV-613 (FJS/GHL) (N.D.N.Y. 07/01/11).

**Ruling:** The U.S. District Court, Northern District of New York dismissed Marita Hyman's Title IX claim against Cornell University.

### LAW & CAMPUS

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

**What it means:** An educational institution can't be held liable for harassment by professors or students except when the evidence shows that it had actual knowledge of, and acted with deliberate indifference to, the harassment.

**Summary:** Hyman, a doctoral student in Cornell's education department, applied for a transfer to the anthropology department in the spring of 2004. She requested support for her application from Davvyd Greenwood, a senior faculty member in that department.

After the admissions committee rejected Hyman's application, Greenwood expressed surprise and encouraged her to reapply. He wrote a letter of support for the application, had two other faculty members sign it, and emailed it to her. Hyman was admitted to the department in May 2004.

Soon after, Hyman sent Greenwood a series of emails, talking about the "next phase" of their relationship,

explaining how "love" could be "powerful ... for productive work," and discussing her sexual relationship with her husband.

Greenwood sent Hyman an email in November 2004, demanding she cease all communication with him. He included a no-contact agreement within the body of the email. Hyman responded, agreeing to not contact him.

Sometime in late November 2006, Hyman answered a campuswide email from Cornell's president asking for input on his review of the university's "Code of Conduct." Hyman protested the treatment she received in the Department of Anthropology and stated that faculty members had repeatedly violated her rights under the code. She copied Greenwood on that email.

The day after, Greenwood sent an email to Hyman's dean to complain she violated their no-contact agreement. He also reported Hyman's conduct to Cornell's Office of Workforce Diversity, Equity and Life Quality and the Office of the Judicial Administrator.

Hyman filed a formal complaint with the OWDELQ in April 2007, alleging Greenwood violated Cornell's sexual harassment policy in relation to his conduct toward her. Greenwood filed a formal complaint in May 2007.

By copying Greenwood on her email to the president, Hyman had an intent to harass him and she violated the "Code of Conduct" when she sent the email to Greenwood in breach of their no-contact agreement, the university's hearing board concluded. The board imposed a punishment of an additional no-contact order and a letter of reprimand.

Cornell's Division of Human Resources released an investigative report in December 2007, concluding that Hyman's complaint against Greenwood was "fundamentally frivolous."

Hyman sued under Title IX, alleging Cornell wrongly found she committed an infraction under the "Code of Conduct" and selectively enforced the code based on gender. To maintain her claim, Hyman had to cite evidence in her complaint alleging a causal connection between gender bias and the allegedly flawed outcome of the grievance process.

Hyman claimed Cornell acted with deliberate indifference when it didn't respond to her email to the president in which she described Greenwood's alleged harassment.

The court rejected Hyman's argument. The judge concluded her email to the president did not comply with Cornell's published instructions for filing a complaint against a faculty member. Therefore, it wasn't reasonable to expect that the university would respond to her statement. Also, although Hyman alleged Cornell ignored her formal complaint against Greenwood, she failed to allege it was because she was a woman.

As a result, the court dismissed Hyman's claim. ■

## FREE SPEECH

## Off-campus MySpace posting not substantially disruptive

**Case name:** *J.S. v. Blue Mountain School District*, No. 08-4138 (3d Cir. 06/13/11).

**Ruling:** The U.S. Third Circuit Court of Appeals reversed the district court's ruling in favor of the defendant. The case was remanded for further proceedings.

**What it means:** Public educational institutions — including colleges and universities — may not discipline students for off-campus speech, unless there is reasonable certainty the speech will cause a substantial disruption to the educational environment.

**Summary:** J.S., a middle-school student in the Blue Mountain School District, was suspended for creating — on a weekend on her home computer — a MySpace profile making fun of her school principal. The profile contained adult language and sexually explicit content.

The student, via her parents, sued the district under 42 U.S.C. § 1983, alleging the suspension violated her First Amendment right to free speech.

After the district court granted summary judgment for the school district, J.S. appealed.

The Third Circuit Court of Appeals reversed the trial court's decision. The appeals court concluded J.S. was disciplined for speech that didn't cause a substantial disruption in school and that couldn't reasonably have led school officials to forecast substantial disruption. As a result, the panel held that

the district violated J.S.'s free speech rights.

The district argued the suspension was justified because the profile caused general "rumblings," a math class was disrupted when a few students were discussing it, a group of eighth-grade girls reported its existence to a teacher, and a counselor's appointment schedule had to be changed.

But the Third Circuit rejected the district's argument. In reaching its decision, the court discussed the prevailing jurisprudence in the school speech area, stating "the First Amendment unquestionably protects the free speech rights of students in public school."

The appeals court applied the rule adopted by the Supreme Court in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969). "To justify prohibition of a particular expression of opinion, school officials must demonstrate that 'the forbidden conduct would materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,'" the majority stated. "Tinker requires a specific and significant fear of disruption, not just some remote apprehension of disturbance."

The court found J.S.'s speech didn't cause a substantial disruption in the school. The court also rejected the district's argument that it was justified in the suspension because there was a reasonable basis to believe disruption might occur.

It held the facts didn't support the conclusion that a forecast of substantial disruption was reasonable, stating J.S. created the profile as a joke and took steps to make it "private," limiting access to her and her friends. ■

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## Understand the most important recent OCR rulings

Howard Kallem and Joan Rubin, chief civil rights attorneys for the Office for Civil Rights, revealed what they considered the 10 most important recent OCR rulings at an Association on Higher Education And Disability national conference. Last month, we included two of the rulings. Here are two more. Review the disability cases below to decide if any of your policies and procedures need to be updated.

➤ *Letter to: Thomas M. Cooley Law School, No. 15-08-2067 (OCR 11/03/10).*

**Ruling:** The Office for Civil Rights determined the Thomas M. Cooley Law School violated the Rehabilitation Act's regulations by providing significant assistance to a student organization that failed to provide necessary auxiliary aids to a student with a disability.

**What it means:** Higher education institutions violate Section 504 of the Rehabilitation Act if they provide significant assistance to an agency, organization or person that discriminates on the basis of disability in providing aids, benefits or services to beneficiaries of the institution's program or activities.

**Summary:** OCR investigated a student's allegation that Thomas M. Cooley Law School discriminated against her based on her hearing impairment. She claimed the school didn't ensure the Student Bar Association provided her with necessary auxiliary aids for a tutoring program.

The SBA was a registered student organization receiving substantial financial funding from activity fees collected by the law school. The school provided the SBA with an office and paid its student-employees.

The complainant requested communication assistance real-time technology as an auxiliary aid to participate in free tutorials the SBA offered to law students. The school denied the request, believing the SBA had to provide the accommodations because it was an independent, nonprofit organization. The SBA refused to provide the auxiliary aid because of its costs.

The relationship between the SBA and the school was sufficiently substantial, and their activities so closely related, that the activities of the SBA could be considered activities of the school, OCR concluded.

The agency determined the school and the SBA denied the complainant an equal opportunity to participate in, and enjoy the benefits of, the tutorials by failing to provide her with services as effective as those provided to students without disabilities.

OCR concluded the school aided or perpetuated discrimination against the student on the basis of disability by providing significant assistance to the SBA, in violation of Section 504 regulations.

➤ *Letter to: University of Nebraska - Lincoln, No. 07102094 (OCR 04/08/11).*

**Ruling:** The University of Nebraska - Lincoln entered into a resolution agreement with the Office for Civil Rights to resolve allegations that it discriminated against individuals with hearing impairments at several sports facilities.

**What it means:** Colleges and universities must ensure their sports facilities have assistive listening devices/receivers that comply with federal disability regulations.

**Summary:** OCR received a complaint alleging the University of Nebraska - Lincoln discriminated against individuals with hearing impairments at its stadium, coliseum, fields, tennis center and other sports facilities.

The university entered into a resolution agreement after being notified of an OCR investigation.

The university adopted the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as its new construction and alteration standard. Therefore, the university could comply with either the Department of Justice's 1991 standards or the 2010 standards (effective on March 15, 2012).

The university agreed to provide OCR with the type, location and number of amplification and assistive listening equipment in each facility; renovation or construction plans; start and completion dates; and plans for signs indicating availability of an assistive listening system, including the international symbol of access for hearing loss.

To comply with 1991 standards, the university would need assistive listening devices/receivers equal to at least 4 percent of the total number of seats. It could either provide a permanently installed assistive listening system or a portable listening system with necessary wiring/outlets. Adopting the 1991 standards for existing facilities wouldn't waive its obligation to comply with new or revised standards in effect at the time of new construction or alteration to existing facilities.

To comply with 2010 Standards, the university must provide the minimum number of assistive listening receivers specified in 36 CFR Part 1191, App. B § 219.3.

OCR closed the complaint and will monitor the implementation of the agreement until the university fulfills its terms in compliance with Section 504 and Title II regulations. ■

DENNIS A. PRUITT, VICE PRESIDENT FOR STUDENT AFFAIRS, VICE PROVOST FOR ACADEMIC SUPPORT,  
DEAN OF STUDENTS, UNIVERSITY OF SOUTH CAROLINA

## Develop risk management plans now for unexpected crises

Dennis A. Pruitt recalls one of his biggest challenges early in his student affairs career: A student on his campus became ill with a newly discovered disease. Pruitt had little information about the illness, and no best practices to follow for managing the situation.

The time was the early 1980s and the student had HIV/AIDS.

"We didn't have Google or the Internet to guide us in our treatment of students, or in the development of policies and practices to manage what was then a societal illness that created fear, anger and hateful behaviors," Pruitt said.



DENNIS A. PRUITT

With almost four decades of student affairs experience under his belt, Pruitt is now vice president for student affairs, vice provost for academic support, and dean of students at the University of South Carolina.

"It was difficult to obtain factual information regarding how safe it was to allow students who were HIV-positive to live, eat, study and play with other students. We didn't know if we should isolate HIV-positive students, deny them enrollment, allow them to live with others, or work in food preparation areas. It was a time of real uncertainty and fear," Pruitt said.

He wanted to make decisions that would demonstrate care for ill students and others. But like many student affairs professionals facing an unfamiliar crisis, Pruitt didn't know where to start. "We had no idea how to help infected students and what, if anything, we needed to do to protect the greater community from a disease we knew almost nothing about," he said.

Fortunately, Pruitt and other staff members had already begun a risk management plan prior to the HIV-positive student coming forward. They began sharing what they were learning from experts to help calm students' fears and teach them how to prevent infection.

Now, instant information abounds and AIDS has shed much of its mystery and fear. But your campus isn't immune from illnesses that may seem just as mysterious and frightening as AIDS once did. And you and your staff must effectively launch education, prevention and risk management efforts.

"Trust that under these kinds of circumstances, people will rise to the occasion in service to each other. People are at their very best when things are the very worst," Pruitt said. "Don't jump to early conclusions. Wait until facts support facts, or until risk management requires you to act, after considering the assumption of risk and the consequence of errors in judgment and timing."

Also, consult campus and national experts and agencies, he said. "Don't be paralyzed by ambiguity, uncertainty, fear, anger, a perceived lack of justice or fairness, or pressure from stakeholders," he said.

First take care of the ill students or victims, Pruitt said. "Tending to them may indeed make managing the rest of the community more manageable. Most of all, remember to be kind, caring, and treat all equitably and fairly."

Contact Dennis A. Pruitt at [dpruitt@sc.edu](mailto:dpruitt@sc.edu). ■

### WORD OF ADVICE

#### Broaden your perspective

Looking back over his student affairs career spanning four decades, Dennis A. Pruitt, who now has multiple positions at the University of South Carolina, culled this career advice for other student affairs professionals:

- ✓ **Focus on effective management.** That includes managing yourself and your relationships.
- ✓ **Know your limitations.** Learn from others. Look at things from their perspective. This includes students.
- ✓ **Read a wide range of information sources.** Look for different perspectives, causes and objectives.
- ✓ **Anticipate change.** Prepare staff members and students to adapt to a changing environment.
- ✓ **Develop resiliency.** Become comfortable with uncertainty and ambiguity by developing the skill of "ritualized ingenuity." That is, learn to come up with the best solutions no matter the circumstances.
- ✓ **Collaborate with others.** Share control, credit and cost.
- ✓ **Rely on experts.** Seek out people who "can make things happen."
- ✓ **Duplicate others' success.** Meet with program leadership, ask for permission to review their materials, and model your program after theirs.
- ✓ **Let go of your fear of failure.** Take a chance on a new program. But only after drawing on data to support it and planning for long-term sustainability, not just the short-term success of a demonstration program. ■