

# Campus Security

## Offering Strategies and Guidance to Campus Security Officials

# Report

VOLUME 7, ISSUE 10

FEBRUARY 2011

### LEGAL SPOTLIGHT

#### SEXUAL HARASSMENT

A student and her parents sue a school district, alleging that she was harassed by an instructor and the district failed to take action. **Page 10**

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### COVER STORY

## FTC rule may require you to create policy to prevent identity theft

The Federal Trade Commission began enforcing its “Red Flags Rule” on Dec. 31, 2010. While you may think this rule applies only to your institution’s finance department or the folks in Financial Aid, if you create, keep or otherwise deal with any records with personally identifiable information such as name, date of birth or Social Security number, it’s likely that you must comply.

#### Fraud covered too

The FTC’s Red Flags Rule is also meant to prevent cases like that of Adam Wheeler, who was accepted into Harvard using fictitious information. **See page 5.**

Understanding what constitutes a red flag and what to do when one is raised will help get your unit in compliance and protect members of your campus community from identity theft. **Full story, see pages 4–5.**

### HIGHLIGHTS

#### Campus policing is about more than enforcing the law

Lawrence M. Zacaese, the assistant chief of police and director of emergency management at Stony Brook University, says that embracing the ‘gentler’ side of college policing ultimately helps keep students safer. **Page 3**

#### In crisis, balance transparency with confidentiality

Members of your campus community, parents and the media will all turn to you for information during a major crisis. Know how to provide transparency while protecting confidentiality when it comes to crisis communication. **Page 6**

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Today’s students are all about social networking. It’s how they spend their free time and communicate with others. Learn how to reach them on Facebook to educate them about safety and deliver critical information. **Page 7**

#### Collegial environment can help retain valuable staffers

Promote collegiality within your campus safety unit to help staffers learn how to better manage office conflicts and feel happier coming to work. That will ultimately help you boost employee retention. **Page 8**

## CU-Boulder issues stay-sober challenge

If you're looking for ways to help students realize they can have fun without drinking and drugs, provide some alternatives.

### NEWS BRIEFING

This monthly feature will help you stay abreast of security-related news you can use to help keep your institution safe.

The University of Colorado at Boulder held a series of weekend events recently that challenged students to stay sober while having fun.

The second annual "Live Free Weekend: 96 Hour Sobriety Challenge" included activities like a kickball game and a frozen yogurt social. Student-volunteers also helped build a multiuse trail in the area. ■

## UT gunman shoots self

Violence will happen on your campus. It's just a matter of when. Be prepared by having a plan in place for dealing with the trauma and fear that is sure to ensue.

At the University of Texas, a sophomore student with an AK-47 fired various rounds before killing himself in the main library. While no one else was injured, the incident left many in shock. Colton Tooley was reportedly dressed in black and wearing a ski mask as he strode through the campus firing the weapon. Police chased him into the library.

Fearing that another gunman might be on the loose, campus police immediately issued warnings via text messaging and the outdoor speakers on campus, asking students and faculty and staff to lock their rooms or offices. Classes were canceled as police searched the campus. ■

## Suit filed for freshman's alcohol death

To avoid lawsuits over alcohol-related deaths, make sure that members of your institution's Greek organizations understand the student conduct code and what consequences they may face for violating it. Then follow up with close supervision and punishment when alcohol laws and policies are broken.

The family of Johnny Smith is suing Wabash College for his death. In 2008, 18-year-old Smith died from alcohol poisoning at the Delta Tau Delta house.

The family's attorney says that upper-class fraternity members purchased alcohol and encouraged him to drink. But since the institution owns the fraternity house, he will argue that it was responsible for ensuring no underage drinking was going on. ■

## BC drug case dropped

Make sure that dorm room searches by your campus safety officers are done with proper consent or risk a scenario like the one that recently played out at Boston College.

Drug charges against two former students from BC are being dropped after the state's highest court ruled that drugs seized during a search of their room can't be used as evidence.

Daniel Carr and John Sherman hadn't given their clear consent to the dorm room search that yielded a stash of cocaine, marijuana and other drugs used as evidence against them during a drug trafficking and possession trial.

Without the seized drugs as evidence, the case against them cannot proceed, Middlesex District Attorney Gerry Leone told media outlets. ■

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– LAWRENCE M. ZACARESE, ASST. CHIEF OF POLICE & DIRECTOR, EMERGENCY MGMT., STONY BROOK UNIVERSITY –

## Embracing gentler side of policing ultimately helps students

When Lawrence M. Zacarese saw the job description for his current position, he felt as though someone had rewritten his résumé to develop the job. He had been a flight paramedic, a member of the New York Police Department, and a college instructor.



LAWRENCE M. ZACARESE

The fact that his current position as assistant chief of police and director of emergency management at Stony Brook University marries all of his former professional experiences so well helps him excel.

His paramedic training taught him about the importance of a quick response in times of crisis. He designed and taught classes in response to terrorism and weapons of mass destruction for the university. He also managed a Department of Health bioterrorism preparedness grant while working full time for the municipal police department.

And being at his alma mater is a bonus. Despite that, switching from municipal law enforcement to campus policing took some adjusting.

“There was definitely a learning curve,” said Zacarese, who recently joined the *Campus Security Report* advisory board. “It helped that I already knew some of the players, because I had taught and managed the grant. But to me, coming here was like policing any small city, since we have between

55,000 and 60,000 people on campus on any given day. However, policing in academia is a lot different than policing a city.”

For instance, he had to learn that many times behavior that doesn’t rise to the level of criminality still requires a response. And sometimes, creating teaching moments is more important than criminal prosecution.

Likewise, sometimes policing on a college campus has nothing to do with actual policing but everything to do with safety. Zacarese’s unit was recognized after he collaborated with various other departments to distribute the H1N1 vaccine.

“This is a nontraditional role for law enforcement,” he said. “However, when you think about the new role of emergency preparedness that campus police are being asked to take on, and when you get a lot of people whose careers are about doing the right thing for others, it makes sense.”

That same attitude extends into other areas of partnerships as well. Zacarese has worked with the counseling center and others on campus to ensure that victims of domestic violence and sexual assault have someone advocating for them and holding their hand throughout the entire process.

“It all comes down to understanding the university’s mission and realizing that your unit’s goal is to help the university carry out its mission while ensuring the safety of everyone involved,” he said.

For more information, you may contact Lawrence M. Zacarese at [lzacarese@notes.cc.sunysb.edu](mailto:lzacarese@notes.cc.sunysb.edu). ■

### WORD OF ADVICE

#### Get support from the top so that you can do your job unhindered

“I’m the doomsday guy no one wants at meetings. I’m the ‘what if’ guy. But it’s always in the interest of putting students’ safety first,” said Lawrence M. Zacarese. He’s the assistant chief of police and director of emergency management at Stony Brook University.

In times when students’ parents expect colleges and universities to keep their children safe from both small and major safety threats, and when recent campus tragedies are still pretty fresh in people’s memories, doing his job requires the full confidence of his institution’s leadership.

“You need to establish good relationships early on so that key college leaders know that you can work with others and want to collaborate, but at the same

time, help them understand that sometimes, the police have to be the police,” Zacarese said.

For example, when a popular student-athlete gets in trouble, “no one wants to see the police there,” he said. “But if athletics or student affairs personnel understand that you have the institutional leadership’s full support to do your job, they will be more likely to try to work with you to deal with the situation.” ■

Who do you want to read about



It could be an expert, co-worker, mentor or simply someone you admire. E-mail your suggestions today to [cgoomez@wiley.com](mailto:cgoomez@wiley.com).

## New financial rule could affect your campus safety unit

### Red Flags Rule is meant to stem identity theft and fraud

In 2003, Congress passed the Fair and Accurate Credit Transaction Act of 2003, which amended the Fair Credit Reporting Act and charged the Federal Trade Commission with creating rules to prevent identity theft. In 2007, the FTC came up with the “Red Flags Rule,” but enforcement was postponed until very recently — Dec. 31, 2010 — to allow covered entities to create programs to ensure compliance with the rule.

Think this applies only to your institution’s financial gurus or the folks in Financial Aid? Think again.

If you create, keep or otherwise deal with any records with personally identifiable information such as name, date of birth or Social Security number — think crime reports — you must comply.

When the law was first enacted, many thought it was meant only for financial institutions. But all organizations that engage in consumer transactions are covered, and that includes colleges and universities.

“It starts to encompass higher education because our institutions do things like let students pay for tuition, issue loans, or offer ID and debit cards used for purchasing at the bookstore,” said Sandra K. Schuster, an attorney and partner at The National Center for Higher Education Risk Management.

While some institutions may be exempt from coverage, the vast majority of colleges and universities throughout the country meet this consumer transactions threshold requirement, she said.

A “red flag” is defined in the law as an event that should alert an organization that a risk of identity theft exists. So for instance, if you find that one of your student-workers or even an officer has been unnecessarily accessing reports of crimes containing students’ personal information, a red flag should immediately go up.

“When you think about all the different ways in which institutions create, use and deal with personally identifiable information, it opens up an entire world of red flag compliance concerns,” Schuster said.

Covered institutions must appoint a person

to serve as the “red flag administrator.” In many cases, this will be the chief financial officer, a vice president of student affairs, or another second-tier campus leader, Schuster said. So your first step should be finding out who this person is at your institution.

The rule also requires that all units have written policies in place explaining their process for identifying red flags and dealing with potential identity theft.

Any time that a red flag is raised, you must document what was done to address it. Internal documentation is critical, because the institution’s red flag administrator is required to create an annual report detailing all of the red flags raised throughout the year and how identity theft was prevented or mitigated.

The Red Flags Rule doesn’t protect just students, but also everyone for whom your campus safety unit holds personally identifiable information, including your staff members.

And third-party vendors such as emergency notification technology companies and private security companies must comply with your unit’s “red flag” policies and procedures. Schuster recommends that you write that into your contract with all third-party vendors.

Such policies must also be reviewed on an annual basis to reflect changes in risks to identity theft.

While FTC officials have said that they won’t engage in spot-checking compliance, the agency reserves the right to fine organizations for violations. That will likely only happen in situations where many members of your campus community are put at risk of identity theft or fraud as a result of a missing or deficient red flags policy or procedure, Schuster said.

For more information, you may contact Sandra Schuster at [sandra@ncherm.org](mailto:sandra@ncherm.org). ■

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*‘When you think about all the different ways in which institutions create, use and deal with personally identifiable information, it opens up an entire world of red flag compliance concerns.’*

— Sandra K. Schuster, Partner

The National Center for Higher Education Risk Management

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## FTC rule applies to fraud as well as identity theft

While the Red Flags Rule’s main intent is to prevent identity theft, it was also created to prevent fraud involving personal information.

A good example of this was the recent case involving Adam Wheeler, a student who was admitted to Harvard University after providing false information about himself, including fake transcripts with inflated grades.

The fictitious information helped him get thousands of dollars in financial aid that he otherwise would not have gotten had he provided his real information.

“This specific case involved theft of institutional resources, and it occurred because the institution didn’t have a system of checks and balances to determine that he was who he said he was,” said Saundra K. Schuster of the National Center for Higher Education Risk Management.

While that doesn’t happen every day, it’s likely you deal with some sort of identity fraud from time to time.

When documents are provided for identification that appear to have been altered or forged (e.g., fake student IDs used for drinking), or when a photo or physical description on an ID card is not consistent with the person presenting the card, a red flag should go up.

If other information on an identification card is inconsistent with information on file with the institution or information provided by a person opening a new data set (e.g., filing a police report), a red flag should also be triggered.

Any other document that appears to have been altered or forged will require investigation as well. ■

### Know how to respond to red flags to prevent, deal with identity theft

Let’s say that your campus safety staff members have all been trained to identify red flags in their day-to-day work. Now what? They must also know how to deal with those red flags in accordance with the law and your unit’s policies.

Any response to a raised red flag by your unit should be conducted in consultation with the red flag program administrator, said Saundra K. Schuster, an attorney at the National Center for Higher Education Risk Management. And the response should be appropriate to the level of the threat. Some possible responses could be:

- Seeking additional verifying information such as a second form of ID.
- Canceling a transaction.
- Contacting a potential victim for verification of information and to inform him that identity theft was attempted using his information.
- Changing passwords or other security measures that permit access to data or accounts.
- Notifying the local police.

While some red flags won’t rise to the level of criminality, others might. Schuster recommended that institutions create a compliance team that can be called upon to determine an appropriate response in such situations. The team should include someone from your unit, the red flags administrator, and representatives from Student Affairs, Financial Aid, Human Resources and Academic Affairs. ■

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## Balance transparency with confidentiality for effective crisis media relations

When students began rioting at the University of Colorado in Boulder, the public demanded to know how the university would respond. That's when Andrea Goldblum learned the important skill of maintaining transparency and confidentiality with the media.

When things go wrong, it's often your campus safety unit that's called upon to get them under control. And it's your unit that the public, including news reporters, often turns to first for information. That's why you need to develop effective media relations skills.

Fortunately, Goldblum, who is now director of the Office of Student Judicial Affairs at The Ohio State University, had received media relations training when the UC situation occurred. So she told the media how the university responded to the riots and the number of resolved cases and suspensions.

She shared, anecdotally, why the riots happened. But she also explained why she couldn't comment on specifics.

If you think there's little chance of your campus attracting media attention, think again. "With the nature of the work we do, there's always the potential for it to be of interest to the media," she said.

Sexual or physical assaults, murders, drug busts or campus shootings will bring attention to any campus, she said. If it involves student-athletes, or sons or daughters of politicians or movie stars, prepare for even more of a media swarm.

So when the media come knocking at your door, follow Goldblum's tips:

✓ **Work with your media representatives.** Ask them for training. But don't refer inquiries to the media relations office unless required by campus policy. It makes you look like you're hiding something. Speaking with the media directly — even if you can't give individual information — allows you to educate the public, Goldblum said.

✓ **Answer questions honestly.** "No comment" also gives the impression that you're hiding something. Try "We take these situations very seriously," or "Our concerns are about the safety of the campus." Explain the student conduct process and institutional goals and mission. Mention your institution's name in every answer. "It's an opportunity for a positive branding message and for people to understand our work isn't all negative," she said.

✓ **Respond promptly to all media inquiries.** But remember that you can determine the time and place of the interview, since you're the one with the

information reporters want.

✓ **Prepare concise key message points.** Rehearse questions and answers. Prepare facts and figures. Check with campus officials to ensure clarity and approval. But don't sound like you're following a script.

✓ **Pay attention to how you sound.** Speak slowly, clearly, calmly and confidently. Think about your pitch and inflection. Watch for nervous habits.

✓ **Be brief.** Don't repeat the reporter's words. Answer the question, then stop. Don't say more than you need to. Be comfortable with silence. Speak in sound bites.

✓ **Respond to questions with bridging and flagging.** Bridging segues between a negative question and the positive message you want to give. Say: "Not at all. The fact of the matter is..." or "That may be true, but keep in mind..." Flagging signals reporters and readers or listeners to pay attention to the most important issue. You might say "Let me emphasize that..." or "People are most concerned about..." or "The really important thing to remember is..."

✓ **Show confidence.** Soft words, such as "I think," "I guess," "I suppose" and "maybe," make you look like you don't know what you're talking about or like you're waffling. Remember, a reporter came to you because you have the expertise and knowledge he needs.

✓ **Skip confusing lingo or jargon.** Quasi-legal student conduct language can be misleading. "If I say I'm putting somebody on probation or prosecuting, they may liken it to the legal system. It doesn't necessarily reflect our educational mission," Goldblum said. Explain it this way: "Generally, in cases like this, we will take students through our disciplinary process. A typical outcome might be placing them on disciplinary probation, which means they're given a higher level of warning. If they have any subsequent violations, it becomes much more serious."

✓ **Explain the Family Educational Rights and Privacy Act in simple language.** Explain that there's a federal law to protect students and govern the privacy of their records. Explain that if the student signs a release, you'll then be free to speak with the reporter.

✓ **Assume you're always on the record.** What you say to a reporter might be recorded or on the air, even if you're told otherwise.

*For more information, you may contact Andrea Goldblum at [Goldblum.3@osu.edu](mailto:Goldblum.3@osu.edu). ■*

## Establish an effective Facebook presence for your unit

Facebook and other social media networks play a significant role in many students' lives. That means your campus safety unit's Facebook presence could provide them with vital stay-safe information.

And when a crisis happens, students can turn to your Facebook page to get the facts, rather than speculating on their own pages and potentially spreading false information.

But an effective FB presence requires more than just setting up a profile, said Debbie Stieffel, the vice president for enrollment management at Susquehanna University in Pennsylvania. She helped set up her institution's FB page.

"It's important to have a Facebook profile because that's where the students go for information and we need to follow the students," she said.

Setting up a page or group for your campus safety unit gives you more control. And an FB "application" gives you even more control, she said.

She hired Varsity Outreach ([www.varsityoutreach.com](http://www.varsityoutreach.com)) to set up an FB application. It gives university officials contact information of participants and other information for effectively communicating and connecting, she said.

An application has back pages accessible by invited guests only — not the public, Stieffel explained. Applications allow you to load the names of students into the back pages, and invite them to be "friends."

If students accept, they can then connect to peers in the back pages who have also accepted, Stieffel said.

"This peer-to-peer connection is the one big thing that sets this strategy apart from anything else we do. It is risky, I suppose, to let the students connect in this way, but the reality is that they are going to do it anyway," Stieffel said.

Students can discuss life on campus, roommate issues, etc. Staff members serve as "interjectors" on the back pages, Stieffel said. "If there's a conversation going on that needs some clarification, they can interject the facts before the story gets out of hand," she said.

If you want to establish an effective presence on FB — whether through a page, group or application — follow Stieffel's tips:

**1. Do your own research.** Are your students on FB? Do they go there for information about your institution? Do they discuss safety issues related to your institution, including recent incidents or emergencies?

**2. Explore the possibility of getting assistance**

### Find social media help

For help navigating Facebook, check out these resources:

- Examples of FB Pages or Groups. Go to [www.facebook.com](http://www.facebook.com). Enter any of the following in the search bar: UMKC Residential Life, UMKC Women's Center, HSC Student Life, Ohio University Office of International Student Faculty Services, or FIU Student Affairs Staff.

- Help setting up a FB Page or Group. Go to [www.facebook.com](http://www.facebook.com), and click on "Account," then "Help Center," "Facebook Applications and Features," and "Groups" or "Pages for Business." Or, while you're on a page, click on "Create a Page for My Business" in the bottom left column.

- FB Application setup. Go to [www.varsityoutreach.com](http://www.varsityoutreach.com).

- Best practices. Go to [www.worksmartim.com/blog/2009/06/17/facebook-best-practices-for-educators](http://www.worksmartim.com/blog/2009/06/17/facebook-best-practices-for-educators) or e-mail [David@WorkSmartim.com](mailto:David@WorkSmartim.com). Or go to [www.socialmedialawstudent.com/twitter/social-media-bestpractices-for-law-schools](http://www.socialmedialawstudent.com/twitter/social-media-bestpractices-for-law-schools). ■

**establishing a FB page or application.** Consider hiring a company to help you. There's no reason to reinvent the wheel.

**3. Choose a group of students to be ready-made "friends."** Students' voices are more believable than staff members'. These could be your student-workers. Use messaging to set up chat opportunities with students.

**4. Frequently update.** Add current information, press releases, pictures, videos and messages. This is particularly important when an emergency is happening and students are seeking information. At other times, provide tips to help students stay safe and avoid becoming victims of crimes. Designate a staff member to this task.

**5. Let go of some control.** Controlling everything isn't possible on FB. But you can seed some of the messaging, control who's behind the scenes, and try to connect students.

**6. Become comfortable with a more relaxed feel and voice.** FB pages and applications differ from professional, polished institutional websites with official information. They should have a laid-back tone. Even videos should look like they were homemade on a personal webcam.

For more information, contact Stieffel at [Stieffel@susqu.edu](mailto:Stieffel@susqu.edu). ■

## Promote collegiality in your campus safety unit

Your campus safety unit will run most effectively and you will retain good officers and other staff members if everyone gets along and treats one another with respect.

### MANAGING YOUR OFFICE

This feature provides you with the guidance you need to help you sharpen your office management skills.

As leader of your campus safety unit, it's your job to encourage collegial behavior.

"In the end, people don't respond to your technique. They respond to your values," said Jeffrey Buller, dean of the Honors College at Florida

Atlantic University.

He explained ways to promote good attitudes in a presentation at an Academic Chairpersons Conference. There are four causes of uncollegial behavior, Buller said. He offered strategies for addressing each one:

**1** A self-image that differs from how the individual is perceived by others. A staff member might feel unappreciated or might have an inflated sense of self-worth. As a leader, you can help build up staff members with low self-esteem. If a staff member has an inflated sense of self-worth, try to inflate others around him, Buller said.

**2** Poor communication skills. Use training and create processes and structures that address this problem.

**3** A lack of ownership or investment. "You always treat the car you buy better than the car you rent," Buller said. Build a team so that staff members feel their contributions matter.

**4** A perception that uncollegiality is permitted. Try new leadership strategies to make it clear that staff members must be civil.

Follow these suggestions to create a more collegial workplace:

- Invest in your staff members by devoting part of your regularly scheduled staff meetings to celebrating their accomplishments. Note both individual and group achievements. Invite members of the group to recognize others' achievements, and invite members to note their own accomplishments.

- Improve communication with staff members. You can do that by:

- Viewing matters from the others' perspective.
- Listening to others actively.
- Paying attention to both words and nonverbal cues.
- Paraphrasing what you hear others say. "Sometimes you find out you got it wrong," Buller said. But don't do this every time someone is talking

because it will become annoying, he said.

- Ask questions to clarify issues and provide focus. Begin your questions with "what." Avoid questions beginning with "why." They can be threatening, Buller said.

- Direct the person's attention toward behaviors and away from personality, character or traits.

- Wait when a question you ask leads to silence. When people don't answer, they are thinking, Buller said. "Give them the luxury of thinking through the issue," he said.

- Thank people appropriately. If you receive a gift, the thank-you note should name the gift specifically and tell how you're going to use it, Buller said. Other thank-yous should be as detailed as those. Be specific, clear and sincere.

- Use your resources. For example, put staff members' birthdays on your electronic calendar a week in advance so you can send a card. Keep records of the names of staff members' spouses and children. "Technology today is a wonderful way of making you sensitive," Buller said.

- Set aside time to build staff members' morale.

- Keep an open door. But also conduct rounds so that you see what staff members are doing.

- Apologize meaningfully. A meaningful apology is sincere, leads to a change in behavior, and acknowledges responsibility. It does not merely acknowledge consequences. For example, "I'm so sorry you feel that way" is a bad apology, Buller said. Also, a meaningful apology avoids excuses. Don't say "I'm sorry I was curt. I was just in a bad mood," Buller said.

- Choose the best way to communicate, given the situation. E-mail has the advantages of being fast, inexpensive and available anywhere. The disadvantages are that e-mails lack nuance, and recipients are unlikely to read beyond the first few lines.

Phone calls are fast and include more nuances than e-mail. But there's no visual element, and you often need to leave messages.

Face-to-face contact is the most nuanced, warm and personal. But it can be time-consuming and difficult to arrange. When you meet in the other person's space, you can control when you leave, Buller said.

*Jeffrey Buller is the author of several books published by John Wiley & Sons. They include The Essential Academic Dean: A Practical Guide to College Leadership and Academic Leadership Day by Day: Small Steps That Lead to Great Success. To learn more about these and other Wiley publications, go to [www.wiley.com](http://www.wiley.com). ■*



## Paper offers guidance for choosing, using notification system

If it's been some time since you've evaluated your emergency notification system, it may be time to take a look at whether the system in place at your institution is still the best one for your institution.

A white paper titled "Emergency Notification & Warning Systems" from the International Association of Campus Law Enforcement Administrators was created by a committee of IACLEA members from institutions across the country and technology vendors. It offers recommendations of best practices for institutions considering any type of warning system and best practices for those that already have a system in place.

For instance, when selecting an emergency notification vendor, the paper urges campus safety leaders to perform due diligence tests on all vendors. Call clients, question performance, and create a matrix to help you compare different vendors' responses, it suggests.

For outdoor speaker systems, ensure the vendor you choose provides a high level of intelligibility for clarity of messages using the Common Intelligibility Scale. And for mass notification systems, ensure that your system of choice provides various methods of notification, such as text messaging, paging, e-mail, voicemail delivery and faxing.

All systems should have full emergency power backup and use an intuitive graphical user interface. Ease of importing maps and drawings (e.g., of suspects) and the ability to operate the system either

locally or remotely should also be present.

When it comes to using your chosen system in the best way possible, the white paper recommends:

- Creating template messages that can be quickly customized for fast distribution of emergency messages. Create templates not only for notifying the campus community about an incident or emergency, but also templates for following up after that first message has been issued.
- Developing a planned message map that can also quickly help campus safety staff and others decide which templates to choose for specific situations. Such maps can also help campus leaders determine the level of response and notification required.
- Testing all communication means periodically to ensure proper functionality. Testing also provides an opportunity for institutions to teach students and others how they should reply to an emergency notification alert if a response is requested.
- Disseminating information regarding your institution's chosen mass notification system to help members of your campus community understand how you will communicate in an emergency and create "reasonable expectations for the delivery of emergency messaging."

The white paper is available in its entirety online through the IACLEA website. Members can access it by signing into the website and going to the "Association News and Information" page. ■

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## SEXUAL HARASSMENT

## Student's Title IX claim against school board reinstated on appeal

**Case name:** *Doe, et al. v. School Board of Broward County, et al.*, No. 09-10394 (11th Cir. 04/27/10).

**Ruling:** The 11th U.S. Circuit Court of Appeals reversed that part of a U.S. District Court's judgment that dismissed the plaintiffs' Title IX claim against Broward County's school board. The panel affirmed the rest of the judgment.

**What it means:** To assert a claim under 42 U.S.C. § 1983, imposing liability on a public college or university official for a subordinate's constitutional violation, the plaintiffs have to establish the official's liability in a supervisory capacity.

**Summary:** A high school student and her parents sued Broward County's school board, alleging that the student was the victim of sexual harassment by her math teacher.

The plaintiffs also filed a claim under 42 U.S.C. § 1983 against Sam Scavella, the former principal of her high school. They asserted that Scavella violated the student's constitutional right not to be sexually abused by a state official acting under color of law, a substantive due process right grounded in the 14th Amendment.

After the District Court granted summary judgment in favor of both defendants, the plaintiffs appealed.

They claimed that two prior complaints against the math teacher filed during Scavella's tenure constituted notice of sexual harassment. The record showed that Scavella asked for written statements for each incident but did not conduct an investigation or warn the teacher about future contact with students.

When Scavella informed the school board of the second complaint, he did not reveal that the math teacher was the alleged harasser. In addition, school board officials did not inquire whether there were prior reports against him.

Under 11th Circuit precedents, supervisory officials are not liable under Section 1983 for the unconstitutional acts of their subordinates unless (1) the supervisor personally participated in the alleged constitutional violation or (2) there was a causal connection between the actions of the supervising official and the alleged constitutional deprivation.

As a result, the panel ruled that the Section 1983 claim against Scavella was properly denied because he did not have policymaking authority and did not cause the alleged deprivation of the student's 14th Amendment rights. ■

## LAWSUITS &amp; RULINGS

This regular feature keeps you informed about recent lawsuits and rulings affecting campus security.

## DUE PROCESS

## Prof jokes about shooting students, then wins breach of contract claim

**Case name:** *Eckel v. Bowling Green State University*, No. 2007-02815 (Ohio Ct. Cl. 06/11/10).

**Ruling:** The Ohio Court of Claims granted judgment to Norman Eckel, holding that Bowling Green State University breached his employment contract by suspending him without pay in violation of the university's academic charter.

**What it means:** A university must follow the rules and procedures of its academic charter in disciplining professors. Failure to do so constitutes a breach of contract.

**Summary:** Eckel was a tenured associate professor of accounting at Bowling Green State University. While teaching a class in 2005, he had a confrontation with a student who arrived late. Eckel asked the student to leave the classroom.

A number of students who were present during the incident filed complaints against Eckel alleging that he made a gesture with his hand, as if he were pointing a gun to his own head, and said "Duh." Immediately afterward, Eckel allegedly stated to his class words to the effect of

"No, I shouldn't shoot myself. I should bring my AK-47 to class and shoot all of you."

He was suspended without loss of pay while the university investigated the allegations.

On April 13, the investigative panel issued its findings. The panel found that it was more likely than not that the students' allegations were true and that Eckel's conduct violated university policies. Eckel was suspended without pay from May 7, 2005, until Jan. 1, 2006.

Eckel submitted a grievance petition. On Nov. 15, 2006, the faculty review board found that Eckel had been denied due process.

Eckel then filed suit for breach of contract. After trial, the court concluded that Eckel proved that the university breached his employment contract by imposing an unpaid suspension that was not authorized by the academic charter. The court also held that the disciplinary measures as outlined in the policy prohibiting workplace violence were not followed. As a result, the court entered judgment for Eckel. ■

## FREE SPEECH

## Discipline for behavior in online class did not violate student's rights

**Case name:** *Harrell v. Southern Oregon University, et al.*, No. CV 08-3037-CL (D. Ore. 03/24/10).

**Ruling:** The U.S. District Court, District of Oregon granted summary judgment to Southern Oregon University on Peter Harrell's lawsuit alleging violations of his First Amendment and due process rights.

**What it means:** Courts traditionally have given educational institutions wide latitude to regulate and safeguard the academic atmosphere.

**Summary:** Harrell filed a complaint in March 2008 against Southern Oregon University and several university officials alleging violations of his First Amendment and due process rights.

In the two years since the complaint was filed, several claims and defendants were dismissed. Only claims under 42 U.S.C. § 1983 for violations of his civil rights remained against four university officials. They moved for summary judgment on those claims.

While a student at SOU, Harrell enrolled in an online course. The defendants alleged that Harrell's comments on Blackboard were abrasive and disrespectful of his classmates. The instructor reported Harrell to SOU's student conduct coordinator. Harrell received notice to appear at a disciplinary hearing. But he declined to appear in letter a letter that described the hearing as a "kangaroo court."

The hearing was held in Harrell's absence and he was found responsible for classroom disruption.

The following term, Harrell enrolled in another online course taught by a different instructor. Once again, students and instructors were made uncomfortable by the tone and substance of his comments. A second disciplinary hearing was held, which he also declined to attend. He was again found responsible for classroom disruption and placed on probation.

The court granted SOU's motion for summary judgment. It held that its policy did not unconstitutionally infringe on Harrell's right to free speech under the First Amendment.

Similarly, the court ruled that Harrell's due process rights were not violated. The judge stated that Oregon law did not give Harrell a property or liberty interest in his ability to post comments on the online discussion board. And even if he had such a property or liberty interest, he had been afforded all the due process that was required. ■

## STUDENT CONDUCT

## Sovereign immunity bars student's claim against university

**Case name:** *Krainski v. State of Nevada ex. rel. Bd. of Regents of the Nevada System of Higher Education, on behalf of University of Nevada, Las Vegas, et al.*, No. 08-17523 (9th Cir. 08/02/10).

**Ruling:** The Ninth U.S. Circuit Court of Appeals affirmed the District Court's dismissal of Megan Krainski's claims of due process violations against the University of Nevada, Las Vegas.

**What it means:** The 11th Amendment bars suits by citizens against states or their agencies for all types of relief, absent unequivocal consent by the state.

**Summary:** Krainski appealed the District Court's dismissal of her 42 U.S.C. § 1983 action against the University of Nevada, Las Vegas, and various university officials in their personal and official capacities. The District Court dismissed Krainski's federal claims and declined to exercise jurisdiction over the remaining state law claims.

Krainski and Kenya Polee were roommates in residential housing at UNLV. Polee was a student-athlete, listed on the university's website as "the top long jumper for the Rebels ... among the top long jumpers in the Mountain West Conference."

Krainski informed university officials that Polee was harassing and threatening her because she had previously complained about another student-athlete. The officials allegedly advised Polee of Krainski's complaint before she had an opportunity to file a formal grievance. As a result, Polee allegedly fabricated a story about Krainski attempting to attack her with a pair of scissors.

Officials reported the alleged attack to UNLV police, who proceeded to arrest Krainski without conducting an investigation. In addition, she was referred for disciplinary proceedings. After a hearing, a notation about Krainski's alleged attack was made on her transcripts.

Krainski claimed that the actions of the university officials violated her procedural due process rights and her substantive due process rights under the Fifth and 14th Amendments. She also claimed that the unlawful arrest and imprisonment violated her rights under the Fourth Amendment.

The appeals court affirmed the District Court's order, holding that sovereign immunity shielded UNLV from civil suits by citizens in federal court. Similarly, qualified immunity shielded the UNLV employees from Krainski's suit because their conduct did not violate clearly established statutory or constitutional rights. ■

## Legislative Watch: State legislative bills

The following bills are being considered or have passed in various states. To express your support or opposition, or to advocate for similar legislation in your state, contact your state senator or representative.

### Calif. wants to create more penalties for repeat DUI offenders

**Bill data:** California A.B. 1443 was introduced on Feb. 27, 2009, by Assembly Member Jared Huffman (D-6) and Sen. Curren Price (D-56).

**Bill status:** This bill was reviewed by a Senate committee last on Aug. 5, 2010. No action was taken at the time.

#### Potential impact

Would create tougher penalties for students convicted of repeated DUI offenses, encouraging students to think twice before getting behind the wheel while intoxicated. ■

**Description:** A.B. 1443 relates to drivers who are convicted of a specified driving-under-the-influence offense within 10 years of two or more offenses by creating enhanced penalties for repeat offenders.

This legislation is aimed at those individuals who continuously get behind the wheel while intoxicated.

Under the bill, students and others who are caught driving under the influence and who have had two prior convictions for the same crime may have their licenses revoked for a period of up to five years.

However, those with more than two previous DUI offenses would lose their driving privileges permanently. Additionally, a student who loses his license under the provisions of this legislation would have to surrender his vehicle to the state.

Individuals would also be prohibited from registering a vehicle in the state as long as their licenses remain revoked.

A person with three convictions would have to petition the Department of Motor Vehicles for reinstatement five years after the last conviction. He would also have to pass both written and driving tests and successfully complete an alcohol treatment program.

**Analysis:** Unfortunately, college-age students can often be reckless, not thinking about consequences of actions they engage in while drinking until it's too late.

While most students convicted of driving under the influence may never commit the mistake again, this isn't always the case. Repeat drunk drivers not only endanger themselves, but also other students at the institution, whether walking or driving.

### Louisiana to get tough on arsonists

**Bill data:** Louisiana S.B. 769 was introduced on April 20, 2010, in the Senate by Sen. Sherri Smith Cheek (D-38).

**Bill status:** This bill was signed into law by Gov. Bobby Jindal on July 6, 2010, and is currently in effect.

**Description:** This bill provides that a person who injures another by arson or by detonating an explosive in any structure, watercraft or vehicle will be subject to imprisonment for six to 12 years. The severity of the injuries involved will dictate the length of prison time within that time frame. Under the bill, those convicted will also be fined up to \$25,000, and they will be ineligible for parole, probation or suspension of their sentences for at least two years.

**Analysis:** Students sometimes become overzealous about the causes near and dear to their hearts and take up violence, as in the case of student-activists who burn down facilities where animal testing is conducted. In other cases, students have targeted researchers in their homes and vehicles by setting fires or detonating explosives.

If your institution has a problem with extremist student-activists, you might want to consider advocating for a legislative measure like this one to discourage them from acting illegally. Students who understand the harshness of the punishments they might face for engaging in this type of behavior may think twice and find more peaceful ways to get their messages across. ■

#### Potential impact

Will ensure student-extremists responsible for arson and explosive detonations receive a harsh sentence to discourage others from following suit. ■

If you're looking for new ways to keep habitual student-offenders of your state's DUI laws off the roads, advocating for stronger penalties may be an effective way to get students to rethink their actions before getting behind the wheel drunk. ■