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A Tale of Two Disciplines: Court Deference in Academic Medical Program Student Discipline

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Not all discipline is created equal in learning institutions, particularly regarding legal challenges to discipline imposed by colleges, universities, and health care institutions in academic medicine programs, including residency and graduate research programs. Courts draw a clear delineation between “academic” discipline and other conduct-related discipline. Institutions, particularly those involving minors in health care settings, mandate student and learner professionalism as part of their programs. The way an institution approaches disciplinary proceedings related to professionalism issues is very important, as the approach can enhance clarity for those involved and mitigate risks of litigation and liability.

What Cases Say

Academic Issues

Courts give more deference to decisions based on failure to meet academic standards, including academic conduct standards (this is what is commonly referred to in the catch-all term academic discipline), than to purely disciplinary proceedings. Most obviously, academic discipline relates to failure to meet skill assessment standards. Plagiarism and cheating may be included in academic disciplinary policies, and tend to be treated as such by courts. And, notably, where professional and ethical standards are incorporated in academic requirements by institutions, courts often consider discipline for failure to meet those standards to be academic as well.

For example, in *Gurbani v. Johns Hopkins Health System Corporation*, the court affirmed summary judgment against a resident physician on the resident's contract and tort claims after she was dismissed from the hospital's residency program. The dismissal was based, in part, on concerns about professionalism and deficient pediatric patient communication skills, despite some evidence that she was meeting core requirements in other areas. In considering its ruling, the *Gurbani* court explained:

Courts have opined that the rule of judicial nonintervention in academic affairs is particularly appropriate in the health care field because a medical school must be the judge of the qualifications of its students to be granted a degree; courts are not supposed to be learned in medicine and are not qualified to pass opinion as to the attainments of a student in medicine¹

Other examples include *Keefe v. Adams*, where a nursing student was removed from his community college nursing program for unprofessional Facebook posts threatening other members of the program. After providing the student with an opportunity to respond to complaints and considering his appeal, the college found that his conduct violated academic program requirements for meeting the Nurses Association Code of Ethics. Adhering to the ethics code was explicitly part of the

program’s curriculum, and students in the program consented in writing to be bound by it. The court noted the college’s finding that the disruptive nature of the student’s posts could ultimately impact patient care. Because of this, the court refused to overrule the college’s determination that the student was unable to meet the professional demands of being a nurse. In so doing, the court noted, “Courts should be particularly cautious before interfering with the ‘degree requirements in the health care field when the conferral of a degree places the school’s imprimatur upon the student as qualified to pursue his chosen profession.’”² Similarly, in *Tatro v. University of Minnesota*, a court refused to overturn university sanctions against a mortuary science student who was found to have posted inappropriate comments on Facebook regarding a human cadaver.³

In sum, where health care programs combine professional standards with academic expectations and programs apply those standards as provided in their policies, courts are unlikely to overrule institutional discipline based on failure to meet those standards.

Conduct Issues

On the other hand, in lawsuits filed about discipline in non-academic conduct matters (e.g., physical altercations and sexual misconduct), courts do not defer to institutional decisions when applying legal principals. In such cases, courts apply general legal principles—such as those related to contract, tort, or due process theories of liability.⁴

What this Means to You

When evaluating disciplinary policies, colleges, universities, and hospital and academic medical center entities operating health care education programs should consider the extent to which professionalism and behavior expectations should coexist with academic standards. These institutions may consider having learners expressly acknowledge that requirements for meeting professional standards are academic expectations.

Further, institutions should ensure that their academic and conduct codes outline the specific policies and procedures that apply to academic versus other misconduct. These codes should allow for appropriate institutional discretion and fairness in process. Finally, as always, institutions should follow their policies and procedures to the extent possible, and document that they have done so in order to face legal challenges in the best manner possible.

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¹ *Gurbani v. Johns Hopkins Health Sys. Corp.*, 185 A.3d 760 (Md. Ct. Spec. App. 2018) (citations and internal punctuation omitted) (adding, “These considerations are particularly apt where the institution involved is a private college or university”).

² *Keefe v. Adams*, 840 F.3d 523 (8th Cir. 2016) (noting the absence of evidence that the college’s use of the code of ethics was pretext for viewpoint discrimination in violation of the First Amendment) (quoting *Doherty v. Southern Coll. of Optometry*, 862 F.2d 570 (6th Cir. 1988)).

³ *Tatro v. University of Minnesota*, 816 N.W.2d 509 (Minn. 2012).

⁴ See, e.g., *Siblerud v. Colorado St. Bd. of Ag.* 895 F. Supp. 1506 (D. Colo. 1995) (noting that dismissal for non-academic reasons called for more stringent evaluation of institutional process, noting that the institution declined to frame the discipline as academic).