

Risk..take it or know it?

Overview and Assessment Workshop

Author: Victoria Estrella

Course: CSA 543 Legal and Ethical
Issues in College Student Affairs

Assignment: Summary of Course text

Background Text

This workshop will be referencing legal definitions, case examples, and recommendations from:

The Rights and Responsibilities of the Modern University: Who Assumes the Risks of College Life? (1999)

Authors: Robert D. Bickel and Peter F. Lake

Workshop Overview

- Preface-“I know the Law..” terms- Law School Review
- Part 1- To know the rights and responsibilities
- Part 2- Knowing the history
- Part 3- “Going to have a revolution”-1960’s Civil Rights Movements on University Campus
- Part 4- Rise of the Bystander University
- Part 5- The beginning of the Duty Era
- Part 6- Main Student Activities Legal Concerns
- Part 7-Authors recommendation: Facilitator University
- Part 8-Conclusion

Preface-“I know the Law”..Terms

It's important for Student Affairs Administrations to be in tune with basic law language before they find themselves having to interpret a student grievance case that is about to go to court. Here are a few terms mention in the text.

Law School Review

Defendant - The person defending or denying a suit

Plaintiff - **A person who brings an action; the party who complains or sues in a civil action.**

In loco parentis - "In the place of the parent"; refers to actions of a custodian, guardian or other person acting in the parent's place.

Tort - A private or civil wrong or injury for which the court provides a remedy through an action for damages. <http://jurist.law.pitt.edu/dictionary.htm>

The basic building blocks of a claim

- (1) Duty- “Duty is about setting limits on responsibilities owed to others.” (67)
- (2) Breach of duty- “Was everything done possible to avoid an injury?” (72)
- (3) Causation (“in fact” and “proximate”) “is there a link to the injury”
- (4) Damage (66)

Tort Law –forces someone to put their claim or need to sue into 1 of 3 boxes.

- (4) Negligence
- (5) Intentional Torts
- (6) Strict Liability (66)

Breach of duty -asks the central question, “Did you use the amount of care minimally necessary to comply with that duty and standard? (72)

Higher Education Historical Areas of Legal Attention-

Bickel and Lake reviewed each areas shift and importance in the history of Higher Education Law

(1) Premises/Landlord responsibility

(3) Liability for Student Activities (like chem. Lab, sports, field trips)

(2) Dangerous persons on campus

(4) Responsibility for Student Alcohol Use and Abuse.

Part 1 To know the rights and responsibilities

Through out history and into the present, when a case is brought to a lawyer, the following questions are asked:

- What was the Student's Responsibility?
- What was the College's Responsibility?
- What does the Student have the Right to?
- What does the College have the Right to?
- Is there a specific case that can be related to this case?
- Could this case impact Higher Education Law?

Know your students' responsibilities

Bickel and Lake recommend that college students are responsible for:

- Students have a duty to protect themselves. (10)

Know your college's responsibilities

- The college and university has a responsibility and duty to establish a safe and learning environment

At every college campus-

Know your students' rights

Know your college's rights

Defining

- What legal issues will your campus be specifically looking for?

Part 2

- Knowing the history

In Loco Parentis

- When did law become part of the university experience?
- “ The story of in loco parentis is one of the rise and decline of insularity from legal responsibility and the rise of justiciability of university life.” (33)

Historic legal cases

Part 3

“Going to have a revolution”-1960’s Civil Rights Movements on University Campus

Key Legal Cases

Changes in Higher Education Law

Part 4

- Rise of the Bystander Unversity

Defination

Examples

Changes in Higher Education Law

Cases

Part 5

The beginning of the Duty Era

What to we “owe” each other?

Courts role

- Student / University Relationship

Premis / Landlord responsibility

Cases

How much responsibility are we
taking?

Being creative

Dangerious Persons on Campus

Court Response

Bad students-how to respond

Examples of Duty

Part 6

- Main Student Activities Legal Concerns

Concern 1

Concern 2

Concern 3

Concern 4

Part 7

- Authors recommendation:
Facilitator University

Stay positive! Aim for Prevention!

Top 7 issues to hold a campus liable

Examples

Part 7

Where is your college?

Future Legal Concerns