

College Alert: The Dangers That Await Your College Bound Kids

8/18/2008

Imagine your daughter, a college student, being subjected to possible disciplinary action because she didn't cover her paper during an exam and was charged with "allowing herself to be used as a source for cheating." Imagine that this charge, which could result in your daughter being expelled, is being heard only by fellow students, that she has limited rights to defend herself, no right to counsel, no protection against self-incrimination and no right to appeal.

Or imagine that your son forgets to hand in the exam booklet from Part One of an exam before beginning Part Two, and instead, hands it in upon completing the exam. He now finds that he has been charged with creating "the opportunity to cheat" and is subsequently suspended for a full year, even though he has not been found to have cheated. He is suspended for having created a potentially unfair advantage.

These are but two examples of the kinds of things that are taking place in colleges and universities across the country every day. A politically incorrect comment resulted in another student being barred from his dorm. A student who collaborated on a homework assignment was thrown out of school. Having too much to drink can now permanently ruin a student's college standing.

"Not to my child," you say? The affected students are from all segments of the society, from the children of CEOs to those who are working two jobs to pay their tuition, from the academically gifted to those who are struggling to get by.

Colleges and universities have become quite sensitive to student conduct and have taken steps significantly to expand their rules and codes governing student behavior. What would have at one time been considered a small, informally handled matter, now may result in permanent expulsion from the university.

For students and their families, the inflexible "zero tolerance" posture—as well as the relative lack of rights afforded to accused students to properly defend themselves—can come as a very rude awakening.

While no parent wants to consider the possibility that a son or daughter could be involved in punishable behavior, it is critical that parents and their children understand a university's codes of conduct and approach to disciplinary proceedings so that they will know how to protect themselves if they ever face a disciplinary process.

While each situation is unique, the following are some useful tips. It is crucial to at least be aware of these factors because you may have to act very quickly someday and need to reach out immediately for help.

Familiarize yourself with the school's code of conduct right now. Nearly all colleges and universities require students to sign a document indicating that the student has read and understood the school's code of conduct. Take the time to read this document thoroughly. Know the rules that govern the disciplinary process. For example, what's the difference between a disciplinary and an honor code violation? What rights does the student have? If a student is charged with an offense, almost all disciplinary processes insist that the student "talk" to a board or its representative immediately. The student should defer responding until he or she has had time to collect his or her thoughts, and should talk to trusted people about what he or she recalls doing and how best to say it.

Encourage open dialogue with your child. Students should resist the temptation to try to keep the matter quiet and should involve their parents immediately.

Deal with the process in a formal way. Reach out for professional advice. Be prepared. Although a lawyer rarely can surface, an experienced practitioner's help is invaluable behind the scenes in developing a coherent strategy and approach, and enlisting support from the university community.

Identify a respected individual within the academic community who can serve as an ally, for example a professor with whom the student has a good relationship.

Be honest. Lying will only make the situation worse—and could significantly increase the penalty.

Don't leave everything to the hearing. So much needs to be done before that day, including trying to resolve the matter before the hearing with a proposal that the university may find attractive; talking to supporting witnesses; getting written witness statements and character references; talking to the dean in charge of student affairs to get a clearer sense of the process, including how harshly comparably situated students have been treated; and developing questions that the student can ask to undermine the credibility of his accuser.

Show contrition. Demonstrate that you have great respect for the process and that you are prepared to do what's necessary to make amends. This has to start (if it is to be effective) long before the hearing—for example, getting into a university-approved alcohol counseling program if alcohol is the issue.

Peter Chavkin, a former federal prosecutor, now a member in Mintz Levin's New York office where he practices in the Litigation Section, heading up the White Collar Criminal and Corporate Investigative Practice, has worked with college students and their families in more than 20 cases involving university disciplinary proceedings across the nation. His work has included informal discussions with the administration, helping the student draft letters and prepare for hearings, and helping to prepare appeals and petitions.

© 1994-2008 Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C. All Rights Reserved.

This website may constitute attorney advertising. Prior results do not guarantee a similar outcome. Any correspondence with this website does not constitute a client/attorney relationship. Neither the content on this web site nor transmissions between you and Mintz Levin Cohn Ferris Glovsky and Popeo PC through this web site are intended to provide legal or other advice or to create an attorney-client relationship. Images or photography appearing on this website may not be actual attorneys or images associated with Mintz Levin.