

# Campus Security Report

## HIGHLIGHTS

3

### LEADERS & INNOVATORS

Allen Hill, Chief of Police at the University of Wisconsin, LaCrosse, shared how a course on human rights policing changed his interactions with community members.

7

### RESEARCH

Read up on a report that suggests campus carry should be federally mandated.

9

### RESOURCES

Consider training specifically geared toward bridging communication difficulties between police officers and students with disabilities.

10–11

### LAWSUITS & RULINGS

Review recent court rulings related to campus safety.



## ADVISORY BOARD SPEAKS

### Campus safety sees mission, duties expand in response to COVID-19

By Halley Sutton, Editor

**T**he *Campus Security Report* Advisory Board met to discuss the way that COVID-19 has changed campus police duties, expectations, and the expansion of campus safety's mission amid student mental health crises on campus.

Joining the call were Lara Fox, Director of Clery Compliance, Northern Arizona University; Ed Book, Chief of Police & Emergency Manager, Santa Fe College; Jeff Kedrowski, Principal, FOG Advisors, Security Management Consultants; Lawrence M. Zicarese, Assistant Chief of Police & Director of Emergency Management, Stony Brook University; and David Miles, University Director, Public Safety, Fairleigh Dickinson University.

Read on for their best practices, challenges, and ruminations about the changes to campus safety and how those changes might be reflected on your own campuses, from our Advisory Board.

### COVID-19 changed campus safety duties, mission

One of the major changes and challenges to campus safety, echoed by nearly all our Advisory Board members, was the change to campus duties caused by COVID-19. "In the COVID age, police saw an expansion of services — we were the only 24/7 entity open on campus," Book explained. "It was a natural progression to assist the college when other activities were needed — crime was down because no one was around."

Those other duties, for Book and Santa Fe College, have included becoming a significant part of the campus food and clothing pantries, offering resources for students and staff in need. Other duties picked up by campus safety have been acting as a point of drop-off for academic materials when students, faculty, or staff were off campus; dental equipment issuances; assisting with small graduations that occurred on campus; and more. "It was a good use of our facility, space, time, and resources," Book said.

"COVID-19 has taken over my life for the last 20 months," Zicarese said. From the beginning of the COVID-19 pandemic, Zicarese and his officers have taken over public safety in new realms, from being involved in the county and state-run testing sites to working the mass vaccine sites once those were in place. "We had one lieutenant and six police officers there 12 hours a day, seven days a week. It was an enormous strain on a workforce already strained from COVID-19," Zicarese said. "We have a burnt out workforce. They're just cooked."

While Stan Skipworth, Director, Campus Safety, Claremont Colleges, did not join the Advisory Board Speaks call, he did contribute anecdotes from his experience at Claremont Colleges. Skipworth shared: "For our department here in Claremont, we've

*continued on page 4*

## BRIEFS

### Eight people arrested after fraternity pledge dies

Eight people have been arrested and three others have been indicted after the death of Adam Oakes, a student at Virginia Commonwealth University who died after developing alcohol poisoning at a fraternity party. According to *The New York Times*, the eight people who have been arrested have been charged with the unlawful hazing of a student. Three others have been charged with buying and giving alcohol to a minor. All 11 people charged are VCU students.

Adams, who was 19, was allegedly given a bottle of Jack Daniel's at an off-campus party at the Delta Chi fraternity house and told to drink all of it. ■

### Dean, associate dean resign over mishandling sexual assault cases

A dean and an associate dean from the University of Montana's Alexander Blewett School of Law have resigned from their positions amid protests regarding alleged mishandling of sexual assault and misconduct claims. According to *The Daily Montanan*, at least 13 current and former students accused the dean and associate dean of various wrongdoings in handling their claims of sexual assault and misconduct.

The alleged wrongdoings include retaliation for reporting, intimidation, and months-long delays in resolving complaints. The university has committed to undergoing an independent

review in assessing the atmosphere at the law school. ■

### UNC cancels classes after students' suicides

The University of North Carolina at Chapel Hill canceled classes on October 11 to address mental health concerns of students due to "multiple reports of suicide" and attempted suicides on campus since the beginning of the fall semester. According to *The News & Observer*, campus police officers were investigating multiple reports of suicide and attempted suicide on campus, including two in October and two in September.

Students began circulating a petition calling on the university to take steps to help students recover from the loss of their peers. The petition had picked up over 2,000 signatures within the first week of circulation. ■

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# Promote fair and impartial policing practices with Human Rights training

By Halley Sutton, Editor

Allen Hill started as Chief of Police at the University of Wisconsin, LaCrosse, in September 2019. And because of the COVID-19 pandemic, his experience at the institution has been an unusual one. “I have not yet experienced a full semester on campus,” Hill said.



ALLEN HILL

Hill, whose law enforcement career started working in the Texas highway patrol in 1998, also spent more than 11 years in campus safety with the University of Houston, Clearlake.

## Review the history of policing

Even before the murder of George Floyd in 2020, UW, LaCrosse, had a grant for a course on fair and impartial policing that officers were required to complete. Shortly after Floyd's killing, one of the institution's psychology and criminal justice professors came up with a course called “Human Rights Policing.”

“We piloted that class along with several of the local area law enforcement agencies,” Hill said. The asynchronous class lasted six weeks, and officers did it while on duty, as part of their professional development. “My officers were very receptive,” Hill said of the class. “I still hear rumblings about it — ‘that’s human rights policing in action, right there.’”

While Hill said that the course didn't necessarily change any of the officers' daily practices, the history and background the course provided impacted officers' understanding of the background of potentially negative attitudes toward police and law enforcement. “It's really important to get our officers to understand that our community has to trust us. We have to listen to those concerns and build those relationships,” Hill said.

Hill shared key takeaways from the course:

➤ **The importance of hearing both sides.** “In the class, there were some difficult discussion board questions — some of the scenarios didn't speak highly of the police. It really challenges you to not take these things personally and really give it an objective look from both sides,” Hill said.

As an officer, it was hard to not feel personally attacked during parts of the course, Hill said. But at the same time, Hill said he valued the perspective shift the course gave him. “It is important to acknowledge these things in policing and we have to understand not everybody likes the police, based on historical examples, and even their own experience in the present,” he said.

➤ **The need for standardized history of policing in academies in every state.** “There have been some really

bad things that police have been involved with over the years,” Hill said. He gave the example of the Philadelphia Bombings where, in the 1960s and 1970s, police officers dropped satchel bombs on neighborhoods of predominantly underrepresented people.

The memory of such events lives on for a long time in a community. But that history isn't necessarily taught across the board, Hill added. Hill said after completing the course, he's come

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*“Leadership is never-ending ... we have to continually remind ourselves of the best leadership practices and priorities and reassess [how we implement those on campus].”*

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to believe in the idea of national standards of policing that also includes educating officers about the history of policing — even, or perhaps especially, the unflattering parts of law enforcement history.

➤ **The articles of the Universal Declaration of the Bill of Human Rights.** The class started by discussing the 30 articles of the Universal Declaration of the Bill of Human Rights, which Hill said he didn't know existed before the course. The 30 articles cover so-called universal human rights and vary from the right to recognition as a person before the law to the right not to be tortured or endure cruel, inhumane, or degrading treatment to the right to not be subjected to arbitrary arrest.

“The goal is to have all of my officers go through this training, and to have it be a requirement for new officers to take

*continued on page 7*

seen our services become significantly broader, and in turn, the expectation of our service mission also evolve/morph over the last 18+ months. More specifically, we've become much more of the go-to resource for supporting the campus community with emergency medical services, transportation to the student health offices, and transportation to hospitals and mental health care facilities (for voluntary evaluations and care). The shift and emphasis upon much more transportation in these forms has also now been expanded to include our department to transport COVID positive patients to isolation spaces and COVID-suspected patients to quarantine spaces."

Skipworth added that the increase in medical transports has come as ambulance companies withdrew from contractual agreements after COVID-19.

But for others, the changes to campus duties have been caused by COVID-19 challenges in a different way. "We've expanded [our services] a bit only because we've had a number of officers that were furloughed, and a lot of them still have not yet come back to work. We're running a bit short," Miles said.

On Miles's campus, two buildings are specifically set aside for students to live in if they catch COVID-19, but campus police officers are not responsible for transporting the students there.

However, campus safety officers are responsible for delivering three meals a day to the quarantined students. And in the height of COVID-19, when campus safety was the only entity

on campus at all hours, Miles's office was responsible for coordinating visits for faculty and staff to come to campus to pick up items they may have left there during the previous semester.

### **Budgetary, recruitment challenges**

For Zicarese, a recent challenge was the New York state mandate that all police officers and public workers be vaccinated or lose their job. "We ended up okay, on the right side of things," Zicarese said. But in the police department alone, there were 16 individuals who were not vaccinated. "They waited until the final hours of the final day [before getting vaccinated]," Zicarese said.

But even before COVID-19, Zicarese said his workforce was already facing hiring challenges. A hiring freeze long before the pandemic even started meant his officers were starting out behind in terms of staffing, and it's only with an influx of hires coming hopefully in December 2021 and January 2022 that his staffing will return to normal numbers.

"Retention has always been an issue," Zicarese said, citing higher salaries, better benefits, and earlier pensions offered by county policing departments. "We finally got a 25-year pension [approved by the Governor] back in 2016," he added. And at the start of the pandemic, his department piloted a 12-hour work shift, and he said it worked well until staffing challenges started to grind on his officers. "When you lose someone for a 12-hour shift, you can't have someone

## STUDENT MENTAL HEALTH CRISES ON CAMPUS

In a recent call, members of our Advisory Board committee sat down and discussed a number of topics, including the change in student mental health and behavior since coming back to campus after the height of the COVID-19 pandemic.

Joining the call were Lara Fox, Director of Clery Compliance, Northern Arizona University; Ed Book, Chief of Police & Emergency Manager, Santa Fe College; Jeff Kedrowski, Principal, FOG Advisors, Security Management Consultants; Lawrence M. Zicarese, Assistant Chief of Police & Director of Emergency Management, Stony Brook University; and David Miles, University Director, Public Safety, Fairleigh Dickinson University.

Anecdotally, student mental health is faring worse at campuses nationwide since the advent of the pandemic. Zicarese said that trend is playing out on his campus, as well. "There's been a precipitous uptick [in mental health transports] — even worse last semester than this semester," Zicarese said. He added his department is seeing at least one or two students transported to a hospital from

counseling and psychological centers or because they left a note threatening self-harm on social media.

"One of my biggest concerns over the next two, three years is coming out of this roller coaster, everybody is incivil. We almost have to retrain everyone about how to treat one another when we're now looking face to face — how to be respectful, professional, courteous. I think these skills have been lost on people while we were working remotely. And what that means for law enforcement is, we have to be even better at what we do and how we interact because so many people are incapable of being civil to each other," Book said.

While Miles said he hasn't necessarily seen poor interactions between students, he does feel that student interactions have changed since the pandemic. "I think the challenge is, they [particularly freshman and sophomore students] got so used to school remotely, they just don't know how to interact face to face. We're seeing a lot of students go to classes, run back to their dorms, not get involved in a lot of activities. I think that's a shame," he said. ■

[else] working for 24 hours, so you have to split it between two to three people — you wind up trying to fill 120 hours of personnel,” he said.

And Zacaress said that public perception of police at this moment in history isn’t helping recruitment efforts either. “Police are now operating in a world where they feel maligned, and society is having an examination of itself and how it treats each other in a virtual remote world. Trying to convince a 21, 22 year old kid that this is an attractive profession [is a challenge]. We’re not seeing the thousands of people taking the [police academy] tests that we used to,” Zacaress said.

Zacaress wasn’t the only one facing staffing challenges during the height of the COVID-19 pandemic and beyond. “We had a total of 12 people furloughed out of our department of 32,” Miles said. Miles tried to ameliorate the situation by getting through a modified schedule for officer work. At the beginning of the pandemic, officers would work 32 hours a week schedule rather than 40 hours.

Morale was good because of that at the time, Miles said, although as the pandemic has gone on, things have become more difficult. “Morale is still not great — the university did not really acknowledge any of the officers and everything we

had to put up with during the year or so that we were closed. A lot of officers felt slighted by it,” Miles said.

And seeing faculty and staff reluctant to come back to campus after working remotely hasn’t helped the issue, Miles added. Recruitment has been difficult as well. “When we used to open up applications, we’d get 100 applicants in a week,” he said. Now, open jobs are lucky to see 20 applicants.

“Without a doubt, the biggest stressor has been the staffing shortages, bar none,” Booksaid. With people having to move around and fill in for different schedules, staffing shortages are playing havoc with their personal lives and with planning.

“We’re facing recruitment and staff shortages, both in higher education and law enforcement nationwide,” Book said. Book said that shortages have seen an increase in first-responder services from his officers but that the change occurred even before the pandemic.

“The effect upon our own staff has been demanding, with limited personnel and due to budgetary limits, no real compensation improvements for the frontline worker who have adapted from public safety professionals to medical transportation staff in many more cases. In short, people didn’t really ‘sign up’ for this level of medical engagement and we really don’t have the tools, equipment, vehicles, training and resources to best-serve these student-patients,” Skipworth wrote.

On the non-sworn side, Kedrowski said he’s also seeing colleagues with difficulty filling positions. “Even the contract security companies are paying \$18 to \$22 per hour for premium accounts — non-sworn and nonunionized [groups] at smaller institutions can’t afford that,” he said. “Nobody will work for \$14 an hour any more.”

Before, Kedrowski said he was always very selective about the officers he was bringing into his department, in terms of both fit and skill set. Now, he’s seeing colleagues who can’t afford to be as choosy when meeting their staffing needs.

Fox shared that she feels leadership in her department has done a good job attempting to boost morale when possible. “At least once a year, we have a gathering in our department with our campus partners — including counseling partners, Dean of Students, people that have assisted us throughout the year — and we have a moment to say thank you, we appreciate you,” Fox said.

In addition, her department will hold potlucks throughout the year to have an opportunity to meet each other, get to know one another outside of work, and express appreciation. Finally, Fox’s chief awards monthly “tree cookies,” sawed pieces of wood that represent the institution’s mascot (the Lumberjacks), to someone doing exceptional work in the department. ■

*“COVID-19 has taken  
over my life for the last 20  
months.”*

*—Lawrence M. Zacaress*

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## YOU BE THE JUDGE

# Did appeals court find university was negligent?

By Eric Lyerly, Esq.

A female student lived in a Northeastern University residence hall during her first year at the university. Another first-year student, A.G., lived in the same residence hall.

## YOU BE THE JUDGE

This regular feature details a recent court case. Review the facts. Think how you would have handled the situation. Then test your legal knowledge by trying to determine how the court ruled.

This feature is written by Eric Lyerly, Esq., for *Campus Legal Advisor*. Lyerly is the co-editor of the publication.

For more from CALA, visit [www.wiley.com/cala](http://www.wiley.com/cala). ■

A couple of months in to the semester, a resident advisor in a different residence hall invited the female student and A.G. to a Halloween party.

The female student and A.G. drank alcohol in her residence hall room before the party and then brought their own alcohol to the event.

While at the party, the female student became intoxicated. A.G. volunteered to escort her back to their residence hall, and the two kissed multiple times during their walk.

The pair checked in with the proctor at the residence hall.

After this, the two students went to A.G.'s room, where he allegedly initiated sex with her.

After learning of the incident, the female student's roommate reported it to an RA as an alleged instance of sexual assault.

Northeastern police initiated an investigation but decided not to file criminal charges.

Likewise, the office of student conduct found that A.G. had not committed sexual misconduct.

The female student sued Northeastern in response, claiming it was negligent for failing to protect her from A.G.'s sexual assault.

However, the trial court granted summary judgment for Northeastern. The female student appealed the judgment. *Helfman v. Northeastern University, et al.*, No. SJC-12787 (Mass. 07/27/20).

**Did the appellate court find Northeastern was negligent for failing to protect the female student?**

**A Yes.** The appellate court held that Northeastern was negligent since its RAs and proctor observed her extreme intoxication and should have foreseen the assault. It was their responsibility to keep her from harm.

**B Yes.** The appellate court found that Northeastern had a "special relationship" with the female student and a duty to protect her from the assault.

**C No.** The appellate court held that the university wasn't negligent because it couldn't reasonably foresee A.G. would sexually assault the female student.

**D No.** The appellate court found a university is never responsible for the criminal acts that result from the voluntary intoxication of its students, even when the person committing the crime is another student.

**Correct answer: C.**

The appellate court held that a university has a duty to protect an inebriated student if it knows she is in imminent danger of serious harm and too impaired to seek help.

However, in this instance, the court explained, the university couldn't reasonably foresee that the female student would suffer sexual assault.

First, there wasn't any indication that A.G. was likely to attack her after the party.

Second, the mere presence of an intoxicated female student with a drunk male student in a residence hall on campus property did not, on its own, suggest imminent harm.

Accordingly, the appellate court affirmed the summary judgment. ■

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## RESEARCH

# Report argues campus carry mandates should be federally overseen

By Halley Sutton, Editor

A report out of the left-leaning think tank, The Center for American progress, argued that “to prevent shootings on college campuses, Congress should ban carrying guns at higher education institutions, like it already does on K-12 school grounds, with similar exceptions such as for law enforcement and military programs.”

Another solution proposed by the report would be for Congress to update the Clery Act and Clery Compliance with new reporting requirements related to gun violence.

In addition, the report suggested that better crime statistics offered to students, families, and the public regarding incidents of gun violence on campus could be helpful metrics of campus safety and the efficacy of current gun legislation.

Finally, the report suggested that the U.S. Department of Education should better study gun violence on campus to better offer support and safety strategies to college campuses.

## Review the landscape of carrying concealed weapons, violence on campus

The authors of the report believe that more states will be seeing legislation regarding carrying concealed weapons on campus in upcoming years, based on recent legislation. Data and other findings cited in the report include:

► From 2013 to 2021, there were 244 incidents of gun violence at colleges and universities, resulting in at least 155 people injured and 86 killed. Those incidents included attacks on others, suicides, accidental discharges, and shootings by police.

► In 2021, two states passed opposing laws on carrying concealed weapons on campus. In Montana, legislation was passed allowing residents to carry a gun without a permit in most places, including college campuses. That legislation was blocked by a judge following a lawsuit by the Montana University System Board of Regents. In Oregon, legislation was passed in 2021 that restored the authority of all college and university campuses to prohibit firearms on campus grounds.

► There are 12 states that currently either explicitly require colleges to allow people to conceal and carry guns on their

grounds or have no laws that prohibit it.

► There are currently 17 states, along with Washington, D.C., that expressly prohibit or set parameters around carrying guns

on college campuses. An additional 21 states leave the decision up to each institution.

“I think the appetite to ban guns on campus at the federal level is pretty low, but I think it’s totally reasonable to ask for small changes to the Clery Act so that institutions are providing better crime statistics and better information to students and

employees,” Bradley D. Custer, Senior Policy Analyst for CAP and one of the co-authors of the report, said.

Read more at <https://ampr.gs/3mbZMY1>. ■

*“...to prevent shootings on college campuses, Congress should ban carrying guns at higher education institutions...”*

## LEADERS & INNOVATORS *continued from page 3*

within their first year [on campus],” Hill said.

And the training, along with broader national conversations about policing in general, has spurred some changes in both local law enforcement and campus law enforcement practices. For example, both municipal and campus police have changed language in their policies to ban chokeholds and neck restraints.

“Leadership is never-ending and we always have to reassess and relearn these things. It’s not a one and done — we have to continually remind ourselves of the best leadership practices and priorities and reassess [how we implement those on campus],” Hill said.

Email Hill at [ahill@uwlax.edu](mailto:ahill@uwlax.edu). ■

## GET PUBLISHED IN CAMPUS SECURITY REPORT

What successful initiatives have you put in place to enhance campus safety? How do you lead your unit to provide the most effective policing possible for your institution?

Share your ideas and successes with your colleagues by writing an article for this publication.

For *Campus Security Report*’s writers’ guidelines, contact the editor, Halley Sutton, at [hsutton@wiley.com](mailto:hsutton@wiley.com). ■

# Finding balance, fostering productivity, avoiding burnout

By Laura G. McGee, Ph.D.

There are good reasons to manage yourself and your work effectively. If your head is buried in adminis- trivia, you won't have time to develop professional relationships, continue your learning and productivity, and practice self-care.

With your nose to the proverbial grindstone, you may simply get worn down while things about which you care deeply will fall by the wayside. If, however, you can turn things around, you'll find the same job more rewarding. And if you can set a good ex- ample as a unit leader, you're more likely to attract the next gen- eration of leadership from within. There's a lot at stake — for you and others.

To help you find balance, foster productivity, and avoid burnout, here are some ideas from my decade-plus tenure in leadership:

► **Identify and protect your best creative time.** Notice when you're inspired and when you problem-solve best. Set aside that time to move forward on projects needing your best creative think- ing. Even a short period of your highest-quality time can have a greater yield for you and serve priorities better than your 8:00 a.m. to 4:30 p.m. presence.

► **Take note now and process later.** Record good ideas when they occur to you. Use a voice recorder, notebook, or slip of paper that you always deposit in the same folder. Then schedule time to develop these. Making note of these bright ideas lets you snag them before they disappear. It also frees your mind to return to the task at hand.

► **Sharpen the saw.** Schedule time for work-related learning. You may be so motivated to process your inbox that you mark articles to read and never return to them. Set aside time for that. Choose valuable input that keeps your thinking fresh and helps you update your practices. In addi- tion to profession-related articles, continue learning through audiobooks and podcasts that let you listen on the go. Apps like Blinkist provide you with the main takeaways of recent books on management in compact form.

► **Feed your curiosity.** Remember what attracted you to your field. You had a genuine intellectual curiosity about your discipline. Dedicate time — even a small amount — to the types of input that hooked you initially. You may

*“Take time to reflect. What will feel — and actually be — rewarding to you in the long run? How can you make time for it? Can you think and produce in new ways?”*

discover that what motivates you has changed. Reflect on what charges you up intellectually now and make time to stimulate those interests.

► **Get away.** Take some time that is 100% off. In her TEDx talk “How to Build Your Well-Being to Thrive,” Dr. Beth Cabrera points out that only 16% of work problems are solved at work. This means that getting away may be more productive than grinding away. Sometimes a bit of distance helps to see things more clearly. Your time off can be long or short. Even a day or a few hours of “forest bathing” can provide new perspective.

► **Let it go.** No one knows as well as you how much you have to manage. Choose to strike some things off your to-do list as you prioritize what really matters. Choose what you can do and release the rest. Compose a short affirmation that acknowledges how much you're accomplishing and gives you permission to feel good about the job you're doing. Make it a short mantra that you revisit daily.

► **Imagine your story.** Take the time now to imagine the personal and professional story that will be yours in five or 10 years. What will you have accomplished in the areas that are meaningful to you? Then make the necessary changes so you achieve those things. ■

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## RESOURCES

# Consider training for peaceful interactions between police, students with disabilities

By Halley Sutton, Editor

Throughout their lifetime, people with disabilities, including students, are more likely to come into contact with police officers, either as victims or as perpetrators of a crime, and discrepancies in communication styles between the two groups might lead to higher rates of excessive force and incarceration. That finding comes from a recent study published in *Intervention in School and Clinic*.

The researchers of the study, Lindsay Diamond, Assistant Professor of Special Education at the University of Nevada, Reno, and Lindsey B. Hogue, a graduate student in the University's Special Education Academic Program of the College of Education & Human Development, proposed a two-pronged training and education approach to lead to more successful interactions.

The suggestions for the trainings include an annual training in addition to initial disability awareness training. Diamond and Hogue recommend that for either branch of training, resources should be delivered with interactive instructional approaches and techniques, including social narratives, video modeling, and role-playing with officers.

"This will ensure that all officers are continually introduced to the topic of disabilities. The ongoing annual training should be modified to present a review of disabilities and provide opportunities for practice working through case

studios and video scenarios. This type of annual training can be delivered using a face-to-face format or through an online platform with built-in assessments," the researchers wrote.

The researchers concluded that while many trainings are available for law enforcement officers in regards to interacting with community members with disabilities, those trainings vary in quality, content, and mode of delivery across states, schools, and law enforcement agencies. "This variability calls for a need for a structured

*"This variability [in training] calls for a need for a structured and systematic training approach for both students with disabilities and police."*

and systematic training approach for both students with disabilities and police," the researchers wrote.

Diamond and Hogue reported to *Nevada Today* that they are working with the JUSTin Hope Foundation to design and implement training around communicating with individuals with disabilities for first responders in Nevada.

The other side of the training suggestions includes training for students on how to best interact with law enforcement, as well as what to expect during interactions with law enforcement. "In addition to this content, we are currently collecting data from families and adults with disabilities to identify what supports are needed for families and IWDs when interacting with first responders," Diamond said.

Download the article at <https://bit.ly/3my0sGe>. ■

## REVIEW RESOURCES FOR INTERACTING WITH STUDENTS WITH DISABILITIES

Interacting with individuals with disabilities, who may struggle to comprehend or react differently to interactions with police than peers without disabilities, presents a challenge for law enforcement.

To discover strategies that might help you and your officers better promote peaceful interactions between law enforcement and individuals with disabilities, consider the following resources:

- **The Arc: National Center on Criminal Justice & Disability.** The Arc offers resources such as webinars, podcasts, and training for both law enforcement and

individuals with disabilities (or those who work with individuals with disabilities) to promote better understanding between the two groups. Find resources at <https://bit.ly/3DfE5Mj>.

- **IACP.** IACP offers free downloadable PDF resources for law enforcement on interacting with individuals with disabilities. Download at <https://bit.ly/3Fog5IH>.

- **Disability Rights.** Disability Rights offers a comprehensive roundup of policies, best practices, and legal briefings regarding criminal justice as it relates to people with disabilities. Read more at <https://bit.ly/2WLyrIp>. ■

## LAWSUITS & RULINGS

### ATHLETICS

#### Judge rules in favor of student-athlete

**CASE NAME:** *Simonetta v. Allegheny College, et al.*, No. 20-32 (W.D. Pa. 03/11/21).

**RULING:** The U.S. District Court, Western District of Pennsylvania refused to dismiss a claim in a student-athlete's suit against Allegheny College.

**WHAT IT MEANS:** A plaintiff claiming retaliation in violation of Title IX must show: (1) she engaged in activity protected by the statute, (2) she suffered an adverse action, and (3) there was a causal connection between the two events.

**SUMMARY:** The plaintiff was an Allegheny College female student who began participating in the men's football team winter workouts in January 2018.

A few weeks later, she allegedly told the assistant football coach a team member was making explicit and inappropriate sexual comments to her during practices.

The plaintiff was prohibited from practicing with the team in late April for the stated reason of poor academic performance.

The plaintiff purportedly sent the assistant coach three emails over the next 90 days indicating her grades were adequate.

According to the plaintiff, the assistant coach allegedly responded to the emails for the first time in late July with a demand she wait until after the fall semester to return to team practices.

The plaintiff filed a suit, and one of her claims was retaliation in violation of Title IX by virtue of being prohibited from practices and ignored for 90 days.

Allegheny filed a motion to dismiss.

The district court judge denied the motion, ruling the allegations were sufficient to show the plaintiff suffered adverse actions not long after her sexual harassment to the assistant coach. ■

### TERMINATION

#### Judge rules against former employee

**CASE NAME:** *Khatri v. Ohio State University, et al.*, No. 5:18CV02962 (N.D. Ohio 02/09/21).

Lawsuit court records are summarized by Richard H. Willits, Esq., and Eric Lyerly, Esq. ■

**RULING:** The U.S. District Court, Northern District of Ohio dismissed a claim in a suit against Ohio State University.

**WHAT IT MEANS:** The Americans with Disabilities Act prohibits employers from denying equal jobs or benefits to a qualified individual with a known relationship to a disabled person.

To prevail on such a theory, the employee must demonstrate: (1) he was qualified for the position, (2) his employer subjected him to an adverse employment action, (3) his employer knew his relative was disabled, and (4) there was a reasonable inference the relative's disability was a determining factor in the decision.

**SUMMARY:** The plaintiff began working for the Ohio State University agricultural center in 2008.

Allegedly motivated by health and safety concerns, the plaintiff reported to campus police three years later that federally regulated infectious agents were being misused at the center.

The alleged retaliation the plaintiff endured for making the report included: (1) "blocking" his employment applications to several schools, (2) including negative comments in his performance reviews, and (3) threatening to fire him.

According to the plaintiff, unnamed administrators also repeatedly said, "You need a job and insurance to keep your son alive."

The plaintiff also claimed administrators ignored his complaints about the retaliation he was experiencing as a result of his earlier report to campus police.

When the plaintiff submitted an employee dispute form in 2016 claiming retaliation for his 2011 report, he was put on leave and forced to undergo a fitness-for-duty examination.

The plaintiff filed an unspecified complaint against his supervisor in November 2017 and was put on a Performance Improvement Plan a month later.

After the plaintiff was terminated in March 2018 for the stated reason of failing to complete the PIP, he filed a suit, and one of the claims was his termination violated the ADA.

The defendant filed a motion to dismiss.

The district court judge acknowledged the allegations about OSU employees repeatedly commenting on his need to maintain employment and health insurance to care for his son but said (1) there wasn't anything to connect those remarks to his termination and (2) other allegations indicated he was actually fired for repeated complaints about retaliation for the report to campus police.

The judge dismissed the claim. ■

## SEXUAL ASSAULT

### Judge rules in favor of disciplined student

**CASE NAME:** *Doe v. Coastal Carolina University*, No. 4:18-cv-00268 (D. S.C. 03/01/21).

**RULING:** The U.S. District Court, District of South Carolina refused to dismiss a suit against Coastal Carolina University.

**WHAT IT MEANS:** In an appeal after a disciplinary hearing, a provost shouldn't consider anything except the materials presented at the hearing.

**SUMMARY:** Coastal Carolina University student John Doe was accused by a classmate of sexually assaulting her.

After a 2016 hearing, the panel decided he hadn't violated any university policies.

When Doe's accuser filed an appeal, the CCU Title IX coordinator submitted a report to the provost disagreeing with the findings of the hearing panel.

The provost ordered another hearing after considering the report.

A second panel held a hearing in 2017 and decided Doe had violated university policies.

Doe filed a suit after he was dismissed, and one of his claims was the appeal process violated Title IX because it was in contravention to CCU policy, which stated: "the appeal authority will generally limit its review of the original hearing record to the following two issues: 1) whether University disciplinary procedures were followed that provided notice of the charges and an opportunity to respond; and/or 2) whether new information exists sufficient enough to alter the original decision and why such information was not available or not presented at the original hearing."

The plaintiff claimed the provost's consideration of the independent report violated the policy's limitation of appellate review to (1) due process issues and (2) the existence of new information.

CCU filed a motion for summary judgment, arguing the provost wasn't limited to those two issues when deciding the appeal because of the policy's qualifying phrase "generally limit."

But the district court judge refused to dismiss the suit, ruling the provost's consideration of an outside independent review of the first hearing panel decision wasn't contemplated in the CCU policy, and a reasonable jury could find anti-male bias motivated the decision to order a second hearing. ■

## EXPULSION

### Judge rules against expelled student

**CASE NAME:** *Doe v. Lake Erie College, et al.*, No. 1:19CV02619 (N.D. Ohio 01/27/21).

**RULING:** The U.S. District Court, Northern District of Ohio dismissed a suit against Lake Erie College.

**WHAT IT MEANS:** The theories of Title IX liability in cases alleging gender bias in university disciplinary proceedings are either: (1) erroneous outcome, (2) selective enforcement, (3) deliberate indifference, or (4) archaic assumptions. To present a viable claim under the erroneous outcome theory, a plaintiff must allege facts casting some articulable doubt on the accuracy of the proceedings and demonstrate a connection between the result and gender bias.

**SUMMARY:** John Doe was a Lake Erie College graduate student who also was employed by the college in an unspecified capacity.

In November 2018, Lake Erie College undergraduate student Jane Roe filed a formal complaint that Doe had sexually assaulted her in his on-campus apartment after plying her with alcohol.

After a December hearing, the panel found Doe responsible for several violations of the student conduct codes.

Doe filed a suit after he was expelled, and one of his claims was an erroneous outcome in violation of Title IX because the relevant municipal police reports reflected that Roe neither said "no" nor asked him to stop.

The college filed a motion to dismiss the suit.

The district court judge ruled the information pertaining to consent in the police reports was irrelevant because (1) Roe had claimed being incapable of consenting because Doe had given her a lot of alcohol and (2) Doe's status as a Lake Erie employee meant he was specifically prohibited from any sexual contact with students.

He also held there weren't any alleged facts connecting the actions of Lake Erie to gender bias.

The judge dismissed the suit. ■

## SUBMIT A LEADER

Know someone who is doing excellent work in the field of campus safety or law enforcement? Do you believe they should be featured in an upcoming issue of *Campus Security Report*? Let us know!

Email Editor Halley Sutton at [hsutton@wiley.com](mailto:hsutton@wiley.com). ■

# Legislative Watch: State legislative bills

*The following bills are being considered or have passed in the state legislature. To express your support or opposition, contact your state senator or representative.*

## Pennsylvania advances “yes means yes” legislation

**BILL DATA:** Pennsylvania S.B. 730 was introduced by Sen. Amanda Cappelletti and 12 other co-sponsors on July 1, 2021.

**BILL STATUS:** The bill was referred to the Senate Education Committee on July 1, 2021.

**DESCRIPTION:** The bill, if passed, would require all post-secondary institutions to have clear policies around what does, and does not, qualify as consent for sexual activity. Institutions would also be required to have sexual violence awareness programs and agreements with local rape crisis and domestic violence centers.

If passed, Pennsylvania would join California, Connecticut, Illinois, Massachusetts, and New York in passing so-called “yes means yes” legislation.

**ANALYSIS:** Proponents of the bill believe that “yes means yes” legislation protects all parties in sexual encounters and hopefully eliminates, or cuts down on, incidents of sexual assault on campus by educating all parties about what positive, and not passive, consent looks like.

In addition, proponents of the bill believe that better agreements in place with rape crisis and domestic violence programs and centers will ensure that students who have survived assault will be better equipped to receive assistance for academic, living, and other accommodations that will help them stay in school.

“It is imperative that we take steps to prevent sexual violence on campuses and more fully support the victims when it does happen,” Cappelletti said. The bill also garnered support from college students in the state. “All too often, student survivors are left on their own to figure out what they need, to help themselves heal through trauma while also managing their education and everything else that college entails. This is the first step to addressing survivor dropout. This bill is a chance to take action,” Ari Fromm, Pennsylvania State Director for Every Voice Coalition and a University of Pennsylvania student, said.

Opponents of the bill believe that requiring specific verbal consent, and without specific rules around that verbal consent, the legislation may in fact lead to more confusion around consent for sexual encounters.

**POTENTIAL IMPACT:** Would require campuses to implement policies around “yes means yes” for affirmative sexual consent. Would require campuses to have agreements in place with local rape crisis centers and clearly delineated domestic violence programs for survivors. ■

## Utah permitless concealed carry law goes into effect

**BILL DATA:** Utah H.B. 60 was introduced by Rep. Walt Brooks on Jan. 6, 2021.

**BILL STATUS:** The bill passed and was signed into law by Gov. Spencer Cox on Feb. 15, 2021.

**DESCRIPTION:** The law allows Utahans aged 21 and older to carry firearms concealed without a state-issued permit. The law went into effect on May 5, 2021. There are 36 states that allow, via reciprocal agreements, for Utahans’ permit status to be recognized in their state. However, if a Utahan does not have a state-issued permit and travels to a state that requires a permit, the individual is subject to the laws of that state.

There are some restrictions to the law, which specifies that carrying concealed firearms is allowed in public areas. Those public areas that still require an individual to have a permit when carrying concealed firearms do include college and university campuses.

**ANALYSIS:** Proponents of the law believe that it does not significantly impact public safety in an adverse way, since individuals already carry a firearm concealed without a permit.

Opponents of the law believe it will negatively impact public safety, as it will encourage those individuals who do not have training with firearms to carry concealed weapons. “My fear is that people don’t know what they don’t know. If they don’t do some serious homework.... Probably the biggest challenge in my classes was debunking all the stuff people came into the room with, their preconceived notions, or worse, things that they’ve heard around the water cooler,” Aaron Turner, a certified firearms expert, told *The Deseret*.

Turner also speculated that individuals might not know they’re not allowed to carry concealed firearms while permitless on college campuses and might face consequences for doing so.

**POTENTIAL IMPACT:** Allows Utah residents over the age of 21 to carry a firearm without a state-issued permit or training. Does not allow for permitless concealed carry to occur on college or university campuses. ■