Student Suits Against Universities - A Losing Proposition?

Occasionally, students sue a university and its faculty and administrators based upon claims that arise out of academic decisions. More often than not, these suits are unsuccessful. The essential factor that usually thwarts the student in these types of cases is the deference that courts give to the judgment of the university or its faculty in purely academic matters. In the leading 1985 Supreme Court case, *Regents of University of Michigan v. Ewing*, 474 U.S. 214, 106 S.Ct. 507, 88 L.Ed.2d 523 (1985), a medical student had sued the University of Michigan because he was not permitted to retake an examination that he originally failed. In finding for the University, the United States Supreme Court made the following statement, often quoted in other cases since then:

> When judges are asked to review the substance of a genuinely academic decision, such as this one, they should show great respect for the faculty's professional judgment.[11] Plainly, they may not override it unless it is such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment.
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> > [11] "University faculties must have the widest range of discretion in making judgments as to the academic performance of students and their entitlement to promotion or graduation."
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> . . . Added to our concern for lack of standards is a reluctance to trench on the prerogatives of state and local educational institutions and our responsibility to safeguard their academic freedom, "a special concern of the First Amendment."

A recent case presenting the scenario in which a university was taken to court by one of its students is *Onawola v. Johns Hopkins University*, 412 F. Supp. 529 (D.C. Md. 2006). The student, Onawola, sued Johns Hopkins University, along with several of its faculty and administrators, alleging that these parties had prevented him from completing his thesis. Onawola's legal theories were fairly typical for this type of case: (1) breach of conduct, (2) discrimination based on race, and (3) retaliation for filing a claim of racial discrimination. The federal District Court, however, rejected all his claims.

Some courts have allowed breach of contract claims against universities. These cases typically involve a student who has completed all degree requirements and a university that, for some reason, will not award the degree. Onawola's breach of contract claim was different. He acknowledged that he had not completed the requirements for the degree but alleged that the defendants' actions had impeded his ability to complete those requirements. The defendants had required Onawola to include a mental health survey in his project, had failed to request a second extension of time for Onawola to complete his grant, and had refused to allow Onawola to compensate the participants in his project. The federal District Court observed that many, if not all, of the complaints made by Onawola involved academic judgments, and the court noted the historical reluctance of courts to substitute their judgment for that of the university and faculty on academic matters. In addition, the record showed that, contrary to the Onawola's claims, the

university had gone to great lengths to accommodate Onawola, such as allowing him fourteen years to complete his degree requirements when the university's published rule is that degree requirements must be finalized in seven years. The District Court stated that "many (if not all) of the events of which Onawola complains are academic judgments, properly left to the faculty of the University, not Onawola, and certainly not this court." *Onawola v. Johns Hopkins University*, 412 F. Supp. at 533.

Of course, academic decisions based upon discrimination or retaliation for filing claims of discrimination are illegal and condemned by all courts. However, merely alleging discrimination is not sufficient. The District Court noted that Onawola, through many repetitive and conclusory allegations, attributed all his problems at the university to racial and nationality discrimination. Citing the absence of any proof of any of these allegations, the Court stated that the "law does not blindly ascribe to race all personal conflicts between individuals of different races." 412 F. Supp at 533.

The *Ewing* and *Onawola* cases illustrate the substantial hurdles that disappointed students often encounter when they attempt to transform their academic disputes into legal claims that are litigated. In Alabama, those difficulties are compounded by the sovereign immunity defense enjoyed by public universities and the substantial state agent immunity defense afforded to their faculty and administrators. Also, Alabama, like many states, does not recognize the tort of educational malpractice, which is often included in a complaint along with breach of contract and other claims. See, *Christianson v. Southern Normal School*, 790 So.2d 252 (Ala. 2001). Of course, even though student suits on academic issues are difficult for the student to win, faculty and administrators should always exercise due care in dealing with students. Universities have an interest in avoiding student disputes and resolving through its own processes those that do arise, because the litigation process itself is tedious, time consuming, and expensive, even when a successful result is ultimately obtained.