

Institutional Liability Essay

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Classroom learning at a college or university is only one small part of attending college. One of the most important ways a student can learn important skills and lessons is by participating in some sort of campus club, organization, or team. "Involvement in student activities is positively related to student retention and to personal success after graduation" (Barrow & Martin, 1996, p. 63). However, for college administrators and legal counsels, these activities can present them with a multitude of legal challenges and issues. The two major legal issues faced by college and university administrators and lawyers is "the potential for institutions to be held liable for the actions of affiliated student organizations," including "injuries sustained by students while participating in co-curricular activities" and respecting the constitutional rights of their students, especially when it comes to the First Amendment (Barrow & Martin, 1996, p. 63). The freedom of assembly and the freedom of speech are the two most often litigated portions of the First Amendment when it comes to students who institute legal action against their school. According to Kaplin and Lee (2007), the majority of legal cases where the verdicts were against colleges and universities, were ones where the school did not do enough to protect the student against harm, or did not properly anticipate liability issues. In order to prevent this, it is imperative that colleges and universities construct clear codes of conduct with which their student organizations must comply. If organizations refuse to adhere to

these codes, an institution can “decline to recognize or limit the recognition of” the organization, resulting in decreased or no funding (Kaplin & Lee..... middle of paperI., 408 U.S. 169 (1972). Retrieved from <http://supreme.justia.com/cases/federal/us/408/169/case.html> Kaplin, W. & Lee, B. (2007). *The Law of Higher Education* (4th ed.). Jossey-Bass: San Francisco, CA. Leaving religious students speechless: Public university antidiscrimination policies and religious student organizations. (2005). *Harvard Law Review*, 118(8), 2882-2904. Retrieved from <http://ehis.ebscohost.com/eds/detail?vid=2&sid=d79271fa-547f-4ba2-807b-09b4c5f41a5e%40sessionmgr198&hid=116&bdata=JnNpdGU9ZWRzLWxpdmU%3d#d b=bth&AN=17385791> *Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819, 1995. Retrieved from <http://supreme.justia.com/cases/federal/us/515/819/case.html> *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 1969. Retrieved from <http://supreme.justia.com/cases/federal/us/393/503/case.html>

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