

## Recent Court Decisions Involving Lawsuits from University Students

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*Higher Education Alert*

6.2.21

The Fall 2021 semester will be here before we know it, and many colleges and universities anticipate welcoming most of their students back to campus following an unprecedented and unexpected turn of events in the past year. Most students and faculty have experienced “Zoom fatigue” and look forward to the resumption of in-person classes, and life on campus with some semblance of what “normal” used to be. However, the effects of the pandemic and the resulting interruption in higher education operations will linger, and institutions will need to grapple with the possibility of defending lawsuits from their own students.

The court has recently ruled on cases brought by students against Pennsylvania schools alleging breach of contract. To date, the court has consistently dismissed claims premised on an alleged contractual duty to provide in-person instruction.

In *Ryan v. Temple University*, two students sued Temple University alleging breach of its implied contractual duty to provide in-person classes and access to its facilities on campus. The student-plaintiffs further alleged that the university unjustly enriched itself through reduced operating costs, while students continued to pay the same amount in fees. The university filed a motion to dismiss, which the court granted, and found that the Student Financial Responsibility Agreement at issue did not include a promise to provide in-person classroom instruction exclusively or unconditional access to campus facilities.

Similarly, in *Hickey v. University of Pittsburgh*, six students sued the University of Pittsburgh alleging that they entered into a contract by paying tuition and fees, and the University agreeing in return to provide in-person education and on-campus services. While the university did not refund any part of the tuition or fees paid by the students, it provided refunds for housing and dining fees. The university filed a motion to dismiss, which the court granted, and found that the students did not plead plausible claims for breach of contract, unjust enrichment or conversion.

Lastly, in *Smith v. University of Pennsylvania*, the student-plaintiffs brought a putative class action suit, alleging that the University of Pennsylvania breached its contract with the students. Again, the university filed a motion to dismiss and while the court concluded that the University did not breach its contract with regard to tuition payments, the court found that the student-plaintiffs stated a claim for breach of contract with regard to fee payments, permitting the action to proceed.

While the institutions largely prevailed in these matters, the cases raise the significance of institutional policies, statements and representations that address academic instruction and related services, including references to the on-campus experience. Colleges and universities should continue to review and update written statements in institutional materials that address academic instruction and the campus environment.

Members of the Higher Education group at White and Williams are available to assist colleges and universities with issues related to COVID-19. If updating institutional materials or if served with a lawsuit or claim related to COVID-19, colleges and universities should immediately consult with counsel and develop a litigation strategy and response that is consistent with their mission and operations.

If you have questions, please contact Nancy Conrad (conradn@whiteandwilliams.com; 610.782.4909), Joseph J. Lee (leejo@whiteandwilliams.com; 610.782.4958), or another member of the Higher Education Group.

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