

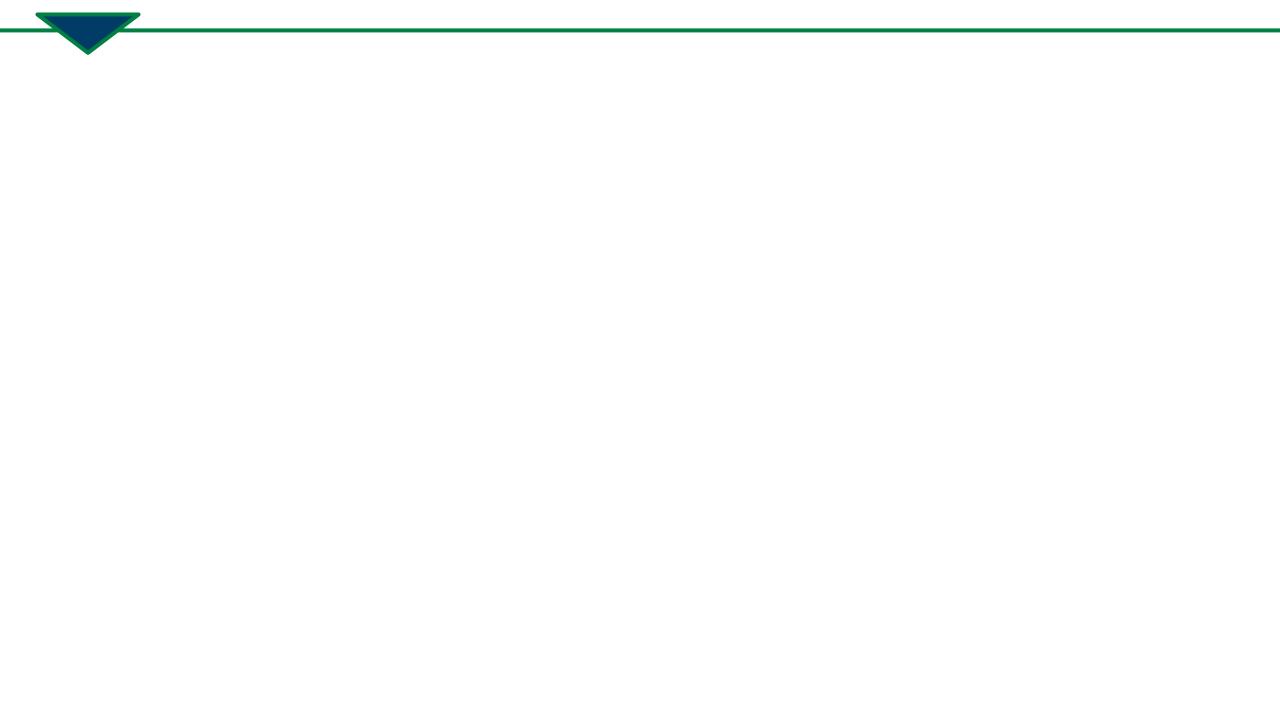
January 16, 2025

- » Due Process
- » Educational Malpractice and Avoiding Contract Claims
- » Avoiding Discrimination Claims
- » Social Media and the First Amendment



- "No State shall deprive any person of life, liberty, or property without due process of law." U.S. Constitution, Amend. 14
- » Goss v. Lopez, 95 S.Ct. 729 (1975) (once student is admitted, student has a protected liberty or property interest in continuing in attendance at a public college/university).







- » Substantive
 - Standards that are not arbitrary or capricious
- » Procedural
 - Adequate notice of charge or standard
 - Opportunity to be heard



- » Behavioral Student Code of Conduct More formal.
- » Academic Grade Appeal Policy, Academic Integrity Course and Program Rules (Progression Committee).

Less formal – deference to academic decisions.



- » Your paper is poor quality; it gets an "F".
- » You did not turn in your paper; the loss of points means you fail the class.
- You exceed the maximum number of excused absences for the



- » Students: Right to be free from arbitrary and capricious academic determinations.
- » Is decision reasonable?
 - How does consequence relate to curriculum?
 - As a practical matter, are similar standards in place in other programs, at other schools?
- » Courts do not want to get involved in matters of professional judgment.



- » Notice of Standard
- » Hearing is not Required Prior to Sanction
- » Departmental Appeal (Readmission or Progression Committee, etc.) and/or Grade Appeal
 - Reasonable? Arbitrary? Capricious? Illegal?
- » Formal Hearing Elements not Required (No J-Board)



» Academic or Behavioral?
Characteristics





- » Legal challenge to general quality of an education.
- » Not generally recognized. Alsides v. Brown Institute



- » Student Handbooks
- » Catalogs
- » Web Pages
- » Bulletins
- » Admissionm0.233T27.nas



» Follow your handbook.
Know what is in your printed material and follow it.

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» Listen to student complaints and solve problems as they arise.





» Pretext
Typically, the student tries to show they were

» LessonTry to be



- » Interaction between the free speech rights of students and the reasonable program rules of the institution
- » Scope/jurisdiction of the rules
- » Lesson focus on the substance of the behavior rather than its format



- » Tatro v. University of Minnesota, 816 N.W.2d 509 (Minn. 2012)
- » Yoder v. University of Louisville, 2012 U.S. Dist. Lexis 45264 (U.S.



Tatro

"[W]e hold that a university does not violate the free speech rights of a student enrolled in a professional program when the university imposes sanctions for Facebook posts that violate academic program rules that are narrowly tailored and directly related to established professional conduct standards."





- » Work with appropriate campus office (Office for Students with Disabilities, Student Affairs, etc.)
- » Emphasize individualized assessment and engaging in an interactive process.
- » Pregnant and parenting is almost always in relation to how you treat other students who need medical absence or leave.



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