



CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

Virginia Court Grapples with Appropriate Remedy for Improper Disciplinary Process

MAY 16, 2016

On April 14, 2016, the United States District Court for the Eastern District of Virginia issued its decision in [Doe v. Rector and Visitors of George Mason University](#), highlighting the difficulties in fashioning an appropriate remedy where a student successfully challenges a university's disciplinary process.

The plaintiff-proceeding under the pseudonym John Doe had been expelled from George Mason University for violating the university's policies on sexual misconduct. However, Mr. Doe sued the school and prevailed on his argument that the university's disciplinary process violated his constitutional rights (after an original disciplinary panel found in favor of Mr. Doe, the school's Director of the Office of Student Conduct allowed the complainant (also proceeding under a pseudonym, Ms. Roe) to improperly pursue an appeal, assigned the appeal to himself and ultimately overturned the original panel's decision).

After the Court, in a prior decision, found that the university had violated Mr. Doe's constitutional rights, Mr. Doe and the university differed on the appropriate remedy. While the parties agreed that Mr. Doe should be reinstated at the university as a student in good standing, the parties differed on whether the university should be able to pursue discipline based on other allegations of Ms. Roe that were not part of the original hearing. Mr. Doe argued that it would be unfair to require him, years later, to defend against allegations that could have been addressed in the original hearing; the university argued that under Title IX it has an obligation to pursue allegations of sexual misconduct and it should not be prohibited from addressing matters that Ms. Roe may subsequently raise. The Court sided with the university, allowing it to move forward with additional disciplinary proceedings, but it placed a strict time limit on when the university had to bring any additional charges (the Court also allowed Mr. Doe and Ms. Roe to continue to use pseudonyms in any future proceeding to protect their privacy).

Client Tip: *This case provides a helpful discussion of the balancing act any institution must perform to address procedural defects in a disciplinary proceeding. While the student who may have faced improper discipline must be placed in as close to a pre-violation position as possible, the institution still must preserve its ability to pursue all allegations of sexual*

misconduct. A copy of the Court's decision can be found [here](#).