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When student disciplinary proceedings overlap with criminal charges.

If more prospective students read colleges' disciplinary rules, they might have cause for pause to sign up for a whole host of colleges. However, such considerations perhaps are too lost during the scramble to apply to college, to secure admission to a top-choice school, and to secure scholarship funding. Â My own undergraduate school, Tufts, went into overdrive on censorship not long after I graduated, and perhaps even before. I did not read the disciplinary rules in enough depth to know if such rules existed when I still was there. I do know that Tufts kicked a classmate off campus after he was charged with cocaine offenses on campus very early on in the prosecution, when he was still presumed innocent, at least in court. Â On the other hand, in college, drinking beer under the legal age was easy at campus parties, obviously fake identification cards were accepted at the nearby liquor store, and students smoked marijuana in the dorms without needing to be concerned about intervention by residential staff. Â Times have changed.Â The nearby University of Maryland clamps down on marijuana, even small amounts, with a vengeance, ordinarily, at minimum, kicking students out of campus housing for at least a semester, and imposing withheld suspension forÂ possession of even the smallest amounts of marijuana.Â High schools find all sorts of reasons to suspend students for suchÂ actions asÂ insubordination, passing outÂ a prescription pill,Â and the list goes on, often ready to warehouse students in off-campus alternative educational facilities that make the sweathog class look likeÂ an advanced placement seminar. Â The disciplinary hearing process at colleges and public schools often amounts to a kangaroo court system with insufficient procedural protections, insufficient appeal rights, and an overly paternalistic educational system at best. Â Some of my student criminal defense clients also face parallel academic disciplinary proceedings, where the right to remain silent is looked at like a concept from another planet, where the refusal to speak can be construed as not cooperating with the truth, and, at the college level, where students serve on the disciplinary panels and as prosecutors, often seeming to feel that the whole disciplinary state of affairs is just fine with them. Â American University leads the Star Chamber model, where students are prohibited even from bringing their lawyer into the hearing room, and where they are told their hearing is not a legal proceeding, even though disciplinary proceedings are spearheaded by the office of Judicial Affairs. The University of Maryland, at least, permits full advocacy from students' lawyers. Â Students cannot always afford lawyers. When that happens, it becomes important for them to find out about advice and advocacy representation they might obtain by a campus students' rights office and by faculty members. On top of that, the Foundation for Individual Rights in Education has online guides available for navigating the often Byzantine campus disciplinary proceedings. Â Unfortunately, by the time a student has hired me for a criminal-related disciplinary matter, the student often has permitted a dormroom search (sometimes university staff claim a right to search without a student's permission) and has given a full statement to university staff. Fortunately, prosecutors will not always seek to obtain and present such student statements nor disciplinary hearing testimony at a student's criminal court proceeding. However, prosecutors should be expected to be most happy to utilize, for the courtÂ prosecution, drugs and other physical evidence seized even under draconian campus housing policies that claim to give students no option to refuse a search. Â Consequently, students should think more carefully before consenting to campus searches and before giving campus staffÂ a statement about their alleged criminal actions. Sometimes it is better to risk losing university housing, and to risk suspension or expulsion from the college rather than to make it easier forÂ the police and prosecutors to obtain a conviction against the student. Ideal is for the student to have legal advice before making such decisions; that ordinarily is an unavailable luxury. Â BecauseÂ student suspects often speak toÂ campus staff and to campus disciplinary panels under duress of adverse consequences to academic status for remaining silent, criminal defense lawyers should be ready to argue that such duress precludes the use of such statements in a criminal court trial.Â Some jurisdictions might have appellate opinions that are fully on all fours with this argument.Â If not, analogies can be made to the inadmissibility in criminal court of statements of police at administrative hearings where the officer is under duress to talk or to lose employment or employment privileges. Â In any event, pressure needs to be put on schools to treat students fairlyÂ by eliminating unfair substantive disciplinary rules, and by assuring fair disciplinary procedures and fair sanctions. The Foundation for Individual Rights in EducationÂ is among the forces fighting for saner and fairer campus disciplinary rules and proceedings. We all should follow a similar path. Jon Katz.Â

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