

Saiber Attorneys Win Summary Judgment in Federal Court for Public University

November 5, 2013

Saiber attorneys Sean Kelly, Rina Grassotti and Greg Tabakman won summary judgment for a large public university, dismissing claims by a graduate nursing student who was expelled because of inadequate academic performance. The former student raised claims based on breach of contract, arguing that the grade standards that should be applied to him were those that had been in effect when he first matriculated, and that the university was barred from making those grade standards more rigorous while the student was in the program. The student also asserted that the university violated his state and federal constitutional due process rights, and discriminated against him on the basis of his military status.

Regarding the student's contract claims, the Court held that in the absence of evidence that the university "deviated in some significant way from its published rules and regulations, [the student's] mishmash of contract-based claims cannot survive summary judgment." The Court also held that the more lenient and outdated grading policies did not apply.

The Court similarly rejected the student's claims of violations of his procedural and substantive due process rights, holding that by allowing an informal process of administrative appeal of the student's grades, the university extended to him more than the required level of due process.

Finally, the Court found no evidence that the university's treatment and dismissal of the student was the product of discrimination or retaliation against him on the basis of his military status, or for any reason other than his poor grades.