Legal Issues Impacting Community Colleges

Recent decisions on equal pay, religious and speech freedoms, AI use in arbitration, women's health discrimination, workplace accommodations, and other legal issues that affect community colleges.

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THE FOLLOWING LEGAL DEVELOPMENTS DURING THE PAST SEVERAL months may impact the day-to-day operation of community colleges throughout the United States. This article does not provide legal advice; all readers are advised to seek legal guidance from their institution's legal advisors before acting on any of the topics discussed herein.

EEOC takes the position that one man paid more than any woman for the same job is a violation of the Equal Pay Act. In an amicus brief filed before the Third Circuit Court of Appeals, the U.S. Equal Employment Opportunity Commission argued that it is not necessary to show a class of men are paid more than women for the same job. Two other Courts of Appeals have already held that a single worker of the opposite sex paid more than

"Follow your dreams—ideally in a field that will still require humans when you graduate."

a female worker performing the same job is a violation of the Equal Pay Act (*Cartee-Haring v. Cent Bucks County School District*, 3rd Cir. No. 25-02540, amicus brief filed 2/5/26).

In a separate case, the EEOC has taken the position before the Third Circuit Court of Appeals that the negligence standard should apply to employers accused of sex harassment when the perpetrator is a third party such as a student, customer, patient, or other third party. The case was filed against a university by a teaching assistant who accused a student of harassing her (*O'Neill v. Trustees of the University of Pennsylvania*, 3rd Cir. 25-03310, 2/10/26).

Federal Appeals Court affirms teacher may sue on First Amendment and religious-freedom grounds after teachers' prayer and Bible study was banned. The plaintiff had regularly engaged in religious activities with other teachers before school in Houston, Texas, before their practice was banned by the school because it took place in sight of students. The Court cited the Supreme Court's decision in *Kennedy v. Bremerton School District*, in which the high court rejected the proposition that a public school may ban an employee's religious expression merely because a student could view it (*Barber v. Rounds*, 5th Cir. No. 25-20125, 3/9/26).

This case could be applied in the community college context because they, like school districts, are public institutions subject to the reach of the First Amendment.

Artificial intelligence (AI) use in arbitration is subject to criticism and possible state and federal limitations. The American Arbitration Association has unveiled the voluntary use of AI in low-value, document-only construction cases with the launch of its "AI Arbitration" tool. Other arbitration agencies are also unveiling voluntary programs using AI tools to help arbitrators move more quickly. Early case law questions whether using such tools exceeds an arbitrator's authority in delegating decision making. Commentators also question whether AI-generated arbitration decisions will be enforceable under the Federal Arbitration Act (FAA).

In late January, the California Senate passed a bill prohibiting arbitrators from delegating authority to AI-generated tools; at the time of publication the bill was pending approval by the full California Assembly. Other states are considering similar measures. Enforceability has yet to be tested in federal court under the Federal Arbitration Act. The one case brought in federal court was dismissed because it did not arise under the FAA and there was no federal-question jurisdiction. It also did not meet the $75,000 minimum controversy standard for diversity cases.

States begin adding menopause as a protected class under antidiscrimination statutes, requiring disability accommodations when requested. The Virginia legislature passed a bill that would add menopause and perimenopause to protection under the state's anti-discrimination law. The new law would also require employers to provide disability accommodations under the state's disability discrimination statute when they are requested. If the bill is signed into law by the governor, Virginia would become the second state to add menopause and perimenopause to disability protection under state statute.

Rhode Island became the first state to adopt such a measure last year. Its law protects and adds menopause and perimenopause to the list of protected classes under the state anti-discrimination statute and provides for disability-related accommodation requests. A similar bill was passed by the California legislature last year but vetoed by the governor, who called for a narrower proposal.

Separately, attorneys in many states have sued on behalf of menopause and perimenopause plaintiffs under existing state statutes on the grounds of sex, age, and/or disability discrimination. Those suits are subject to individual state court interpretation of the applicable state laws. Efforts to add menopause to protection under federal anti-discrimination protection have stalled in Congress.

Occupational Safety and Health Administration (OSHA) to limit proactive workplace-safety inspections in coming year due to loss of safety inspectors. According to Department of Labor records published by Bloomberg, OSHA has lost more than 100 safety inspectors due to government cutbacks and resignations since the beginning of the Trump Administration. This translates into a total of approximately 1,700 inspectors responsible for ensuring the safety and wellbeing of 144 million workers across the United States.

Traditionally, the agency has inspected known hazards and enforced possible OSHA citations and workplace safety failures. Inspections in the past have included routine and periodical proactive checks to prevent accidents from occurring. Commentators conclude that the reduction of labor will limit OSHA inspections to those responding to workplace accidents, fatalities, injuries, and complaints, risking injuries to workers that formerly may have been preventable.

Employer's refusal to accommodate change in work schedule for employee with autism spectrum disorder leads to jury trial. An Amazon employee who was unable to drive due to autism had successfully worked an overnight shift because his carpool arrangements enabled him to get to work on time. The employee claimed he was unable to arrange a different carpool to meet the requirements of his new schedule. The employer sought to dismiss the case, claiming that it proposed several reasonable alternative accommodations. The judge ruled that the plaintiff was entitled to a jury trial over the issue of whether the employer did enough to accommodate the plaintiff's request and whether the request posed an undue hardship for the employer (*Marquart v. Amazon.com Services LLC*, 2026 BL 20054 M.D. Pa. 1:23-cv 01095, 1/22/26).

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