

NURSING STUDENT'S CHALLENGE OF DISMISSAL FROM NURSING PROGRAM UNSUPPORTED

written by Nancy Brent | February 5, 2026

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In my [June 2024 post](#), I discussed the dismissal of a student from a private university which the court upheld.

The case is one of many that generally illustrates a court's reluctance to overturn nursing faculty decisions of dismissal from a nursing program. Courts defer to faculty decisions because (nursing) faculty are considered "experts" in making determinations as to a student's ability to progress through the program and graduate as a safe and effective professional nurse.

In the following case (Tercier v. University of Miami, Inc., District Court of Appeal of Florida, Third District, Case No. 3D22-1334, August 2, 2023), the Appellate Court evaluated a nursing student's allegations against nursing faculty, again in a private university.

Facts of the Case and Court Proceedings

The male student was admitted into the school of nursing's Doctor of Nursing Practice (DNP) program of the university but four years later was dismissed due to "deficient performance and substandard grades."

The student alleged that his poor grades were just an excuse to support his dismissal and contended that throughout his enrollment he was subjected to .."a high degree of bias.....as a result of his ethnicity/national origin and gender."

There were many events supporting the student's allegations, including:

- Removal of a clinical placement and not passing both the clinical and class portion of a specific nursing course
- A year later, the student repeated the clinical and classroom sections of the course he failed
- The student was asked to resign from the nursing program due to "concerns about his clinical skills" but he refused. He was then dismissed from the program. He successfully appealed that decision
- The student was placed in a clinical rotation five days per week (rather than three days other

students were required to complete) and due to this schedule, he missed written exams that conflicted with his clinical days, thus creating a condition “where passing was impossible”

Two months before graduation, the student was dismissed from the program; his appeal of this decision was denied.

The student sued the university on several grounds, including that certain faculty discriminated against him based on his “ethnicity/national origin and gender” and created an environment of animosity intentionally designed to ensure his failure as a student.

The university moved to dismiss the complaint for [failure to state a cause of action](#). A hearing was held and the court treated the motion as a [Motion for a More Definite Statement](#) and ordered the student to file an amended complaint.

The student’s amended complaint contained similar allegations contained in the original complaint and added additional causes of action—breach of contract, breach of contract/good faith and fair dealing, negligent supervision, and injunctive relief.

In support of the allegations in the amended complaint, the student attached the latest student handbook to support his claims.

The university filed its second request to dismiss the student’s amended complaint for failure to state a cause of action. The student filed an objection.

The court held a “special-set” hearing on the university’s motion and asked that the parties submit their proposed orders to the court. The trial court adopted the university’s proposed order verbatim 3 hours after it was received, granting the motion and dismissing the complaint [with prejudice](#).

The student appealed the court’s decisions.

Appellate Court Ruling

As to the student’s breach of contract claim, the court first ruled that the latest student handbook was not applicable to the case. Rather, the court held that the student handbook in existence when the student was admitted to the program was the one that applied to the student’s complaint.

Regardless of which handbook was applicable, the court opined that the student’s allegations failed to allege a “legally sufficient” breach of contract claim because the student simply recited the program’s policies in the handbook rather than cite specific facts to support his claims.

In fact, the court continued, the student acknowledged that he did fail one of his courses and that the handbook clearly stated that receiving a C or below in a course is ground for dismissal.

The student's negligent supervision claim was also unsupported by specific facts. Rather, the student made "conclusory allegations of purportedly 'discriminatory' acts by unidentified University employees", and several specifically to two identified faculty members.

Because of the broad, general allegations, the appellate court held the trial court properly dismissed these two claims.

The student's allegation that the court did not exercise its independent judgment concerning his case when it adopted the university's order verbatim and within a brief period of time was also rejected by the appellate court.

The appellate court did, however, encourage trial courts to make oral findings of their opinions.

The appellate court affirmed the decisions of the trial court.

Instructions From This Case

The case illustrates the ability of an individual to file his or her case in court without prior review as to its legal sufficiency. However, once filed, the allegations in a complaint must be based on facts and not on conclusions, opinions or beliefs. In this filed complaint, the student did not do so.

However, if the student plead specifics and was able to support those specific allegations, he may have won a judgment in his favor. As a faculty member, then, it is essential that your notes and evaluations of a student be factual, complete, and consistent with the grading and policies ratified by the nursing program and the academic institution within which the nursing program exists.

The case also emphasizes the importance of the legal relationship between a student in a private institution and the nursing program. That relationship is based on [contract law](#).

The student handbook, syllabi, policies and procedures, and other written and oral rights and responsibilities of both the faculty and the student form that contract. If any breach occurs, a student can file a case alleging the breaches he or she believes occurred.

Remember, too, that in addition to adherence to the established contract with students, your actions as a faculty member cannot be [arbitrary, capricious, or discriminatory](#) in any decision affecting a student.

If you are named in a suit by a student or former student, contact your professional liability insurance carrier before talking with anyone. The agent can provide you with instructions on what to do and one of its attorneys will be representing you in the lawsuit.

In addition to the comments in this posting, please review the June 2024 blog for additional points to keep in mind if you teach nursing in a private academic setting. Knowing what your legal rights and responsibilities are in regard to students and their progression through your program can reduce the

potential for legal challenges to your decisions.

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