

SUPREME COURT OF RHODE ISLAND

NO. 2021-268-A

Rahim Caldwell

V.

Jason Anthony et al

ORDER

Appellant Rahim Caldwell's petition for argument,  
as prayed, is denied.

This matter shall be closed.

Justice Long did not participate.

Entered as an Order of this court this 13<sup>th</sup> day of  
January 2023.

By Order,

/s/ Debra A. Saunders

Clerk

record, we conclude that good cause has not been shown and that this case may be decided without further briefing or argument. For the reasons set forth herein, we affirm the judgment of the Superior court.

The plaintiff filed a complaint in Providence County Superior court on September 30, 2019, which was subsequently amended on December 4, 2019. The amended complaint named Anthony, the Rhode Island College (RIC) director of admissions, and Ghio, the former director of security and Chief of police, as defendants. It raised thirty-six counts stemming from the revocation of plaintiff's admissions to RIC. The plaintiff alleged that defendants "perpetrated violations of his Rhode Island state constitutional rights, his United States

\* \* \*

Constitutional rights under the due process clause of the fourteenth amendment, [ RIC] student bill of rights, Academic Integrity board, including Student conduct board, When [ sic ] both Jason Anthony and Frederick Ghio made decisions that caused irreparable harm or injury to plaintiff's educational benefits at [RIC] including his liberty and property interests at [RIC].”

The defendants filed a motion to dismiss pursuant to Rule 12(b)(6) of the Superior court Rules of Civil Procedure and for an award of attorneys' fees, to which plaintiff filed an objection. On July 13, 2021, and October 7, 2021 hearings on the motion to dismiss were held before a justice of the Superior Court. The plaintiff has not provided this court with a transcript of those hearings.

On October 8, 2021, the hearing justice entered an order granting defendants' motion to dismiss. The order dismissed all claims against Anthony, based on res judicata on account of proceedings in the matter of PC-2018-4590.”<sup>1</sup> As to Ghio, the order dismissed all counts for failure to state a claim upon which relief could be granted.

A separate order denying defendants' motion for attorneys' fees and a separate final judgment in favor of defendants were entered on the same day. On October 26, 2021, plaintiff filed a timely notice of appeal.

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<sup>1</sup> The plaintiff has filed two other cases against one or both of the defendants: PC 18-7908. The former was prematurely appealed to this court and therefore was dismissed in May 2019.

On appeal, plaintiff fails to articulate any claim of error by the hearing justice, nor does he articulate with any specificity why the dismissal should be vacated.

“This court ‘deems issues waived when a party simply states an issue for appellate review, without a meaningful discussion thereof.’ “Palange v. Palange, 243 A.3d 783, 785 (R.I. 2021) ( mem.) (quoting Broccoli v. Manning, 208 A.3d 1146, 1149 (R.I. 2019)). We “ will not search the record to substantiate that which a party alleges.” Id. (quoting Giammarco v. Giammarco, 151 A.3d 1220, 1222 (R.I. 2017).

The plaintiff has additionally failed to provided this court with a transcript. There is, Therefore, no way for this Court to determine what objections the

plaintiff may have made or what claims have been preserved for appeal. Article I, Rule 11 (a) of the Supreme Court Rules of Appellate procedure requires an appellant to transmit to the Supreme Court “the record on appeal, including the transcript necessary for the determination of the appeal, \* \* \* within 60 days after the filing of the notice of appeal[.]” ( Emphasis added.) Although “pro se litigants are often granted greater latitude by [a] court[,] they are not exempt from our rules. *Terzian v. Lombardi*, 180 A.3d 555, 558 (R.I. 2018) (brackets omitted) ( quoting *Jacksonbay Builders, Inc v. Azarmi*, 869 A.2d 580, 585 (R.I. 2005)). The plaintiff’s “ failure to provide this Court with a sufficient transcript precludes a meaningful review and leave us no alternative but to deny the appeal and uphold the [ hearing] justice’s findings.” *Palange*, 243 A.3d at 784 ( brackets and deletion

omitted) (quoting Calise v. Curtin, 900 A.2d 1164, 1169 (R.I. 2006)).

Accordingly, we affirm the judgment of the Superior court. The record may be returned to the Superior court.

Entered as an order of this court this 20<sup>th</sup> day of December, 2022.

By Order,

/s/ Debra A. Saunders

Clerk

Justic Long did not participate.

Supreme Court of Rhode Island

No. 2021-268-  
Appeal  
(PC-19-9870)

Rahim Caldwell

V.

Jason Anthony et al.

ORDER

The Plaintiff, Rahim Caldwell, appeals pro se from a Superior Court judgment dismissing the matter “on the merits” in favor of the defendants, Jason Anthony and Frederick Ghio. This case came before the Supreme court pursuant to an order directing the parties to appear and show cause why the issues raised in the appeal should not be summarily decided. After considering the parties’ written and oral submissions and reviewing the



Caldwell v. Anthony, 285 A.3d 734 (2022)

285 A.3d 734 (Mem)

Supreme Court of Rhode Island

Rahim CALDWELL

V.

Jason ANTHONY et al.

No. 2021-268 Appeal

I

(PC 19-9870)

I

December 20, 2022

Providence County Superior Court, Associate Justice

Melissa E. Darigan

Attorneys and Law Firms

Rahim Caldwell, Pro se.

Jeffrey S. Michaelson, Esq., for Defendants.

ORDER

The plaintiff, Rahim Caldwell, appeals pro se from a Superior Court judgment dismissing the matter "on the merits" in favor of the defendants, Jason Anthony and Frederick Ghio. This case came before the Supreme Court pursuant to an order directing the parties to appear and show cause why the issues raised in this appeal should not be summarily decided. After considering the parties' written and oral submission and reviewing the record, we conclude that cause has not been shown and that this case may be decided without further briefing or argument. For the reasons set forth herein, we affirm the judgment of the Superior Court.

The plaintiff filed a complaint in Providence County Superior Court on September 30, 2019, which was subsequently amended on December 4, 2019. The amended complaint named Anthony, the Rhode Island College (RIC) director of admissions, Ghio, the former RIC director of campus security and chief of police, as defendants. It raised thirty-six counts stemming from the revocation of plaintiff's admission to RIC. The plaintiff alleged that defendants "perpetrated violations of his Rhode Island state constitutional rights, his United States \*\*\* constitutional rights under the due process clause of the fourteenth amendment, [RIC] student bill of rights, Academic Integrity board, including Student conduct board, When [sic] both Jason Anthony and Frederick Ghio made decisions that caused irreparable harm or injury to plaintiff's educational benefits at [RIC] including his liberty and property interests at [RIC]."

The defendants filed a motion to dismiss pursuant to Rule 12(b)(6) of the Superior Court Rules of Civil Procedure and for an award of attorneys' fees, to which plaintiff filed an objection. July 13, 2021, and October 7, 2021, hearings on the motion to dismiss were held before a justice of the Superior Court. The plaintiff has not provided this Court with a transcript of those hearings.

October 8, 2021, the hearing justice entered an order granting defendants' motion to dismiss. The order dismissed all claims against Anthony, based on "res judicata on account of proceedings in the matter of PC-2018-4590". 1 As to Ghio, the order dismissed all counts for failure to state a claim upon which relief could be granted. A separate order denying defendants' motion for attorneys' fees and a separate final judgment in favor of defendants were entered on the same day. On October 26, 2021, plaintiff filed a timely notice of appeal.

## I

The plaintiff has filed two other cases in Superior court against one or both of the defendants:

PC 18-4590 and PC 18-7908. The former was prematurely appealed to this Court and therefore was dismissed in May 2019.

On appeal, plaintiff fails to articulate any claim of error by the hearing justice, nor does he articulate with any specificity why \*735 the dismissal should be vacated. "This court 'deems an issue waived when a

party simply states an issue for appellate review, without a meaningful discussion thereof.’ “Palange v. Palange. 243 A.3d 783, 785 (R.I. 2021) (mem.) (quoting Broccoli v. Manning, 208 A.3d 1146, 1149 (R.I. 2019)). We “ will not search the record to substantiate that which a party alleges.” Id ( quoting Giammarco v. Giammarco, 151 A.3d 1220, 1222 (R.I. 2017)).

The plaintiff has additionally failed to provide this Court with a transcript. There is, therefore, no way for this Court to determine what objections the plaintiff may have made or what claims have been preserved for appeal. Article I, Rule 11(a) of the Supreme Court Rules of Appellate Procedure requires an appellant to transmit to the Supreme Court “the record on appeal, including the transcript necessary for the determination of the appeal, \* \* \* within sixty (60) days after the filing of the notice of appeal[.]” (Emphasis added.)

Caldwell v. Anthony, 285 A.3d 734 (2022)

Although “pro se litigants are often granted greater latitude by [a] court[.]” they are not exempt from our rules. Terzian v. Lombardi, 180 A.3d 555, 558 (R.I. 2018) (brackets omitted)

(quoting (flag symbol) Jacksonbay Builders, Inc. V. Azarmi, 869 A.2d 580, 585 (R.I. 2005)). The plaintiff’s

failure to provide this Court with a sufficient transcript precludes a meaningful review and leaves us no alternative but to deny the appeal and uphold the [hearing] justice's findings." Palange, 243 A.3d at 748 (brackets and deletion omitted) (quoting Calise v. Curtin, 900 A.2 1164, 1169 (R.I. 2006)).

Accordingly, we affirm the judgment of the Superior Court. The record may be returned to the Superior Court.

Entered as an Order of this Court this 20<sup>th</sup> day of December, 2022.

Justice Long did not participate.

All Citations

285 A.3d 734 (Mem)

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Supreme Court of Rhode Island

No. 2018-342-Appeal

(PC-18-4590)

Rahim Caldwell

V.

Stephen King et al.

ORDER

The Plaintiff Rahim Caldwell, a pro se litigant, appeals from a Superior Court order denying his second motion to reconsider the dismissal of his complaint against the defendants, Jason Anthony, Margaret Lynch-Gadaleta, and Roberta Pearlmutter. This case came before the Supreme Court at a session in conference pursuant to Article I, Rule 12A(3)(b) of the Supreme Court

Rules of Appellate Procedure. At this time, we proceed to decide this case without further briefing and argument.

After reviewing the material submitted by the parties, as well as the record and travel of this case, we conclude that the plaintiff's appeal is premature. The order appealed from does not dispose of all claims against all parties, nor does the record reflect that judgment in accordance with Rule 54(b) of the Superior Court Rules of Civil Procedure was entered in favor of one or more of the defendants. "A final judgment or order for purposes of appealability is one that terminates all the litigation arising out of the action between the parties on the merits." *Coates v. Ocean State*

Jobbers, Inc., 18 A.3d 554, 561 (R.I. 2011) (brackets omitted) ( quoting Retirement Board of Employees Retirement System of Providence v. Prignano, 991 A.2d 412, 412 (R.I. 2010) (mem.)). Thus, both the original order dismissing the plaintiff's claims against Mr. Anthony, Ms. Lynch-Gadaleta, and Ms. Pearlmutter, and the order denying the plaintiff's second motion for reconsideration, are interlocutory. The Plaintiff's appeal is therefore dismissed as premature.

Furthermore, the judgment entered in favor of all defenants in the case after the plaintiff's appeal had been docketed in this court was improper. " It is well established that once an appeal has been docketed and the papers of a case transmitted to this court, the trial court is divested of its power to act in the case." Krivitsky v. Krivitsky, 43 A.3d 23,



29 ( R.I. 2012). After the plaintiff's appeal was docketed in this court, the hearing justice no longer had jurisdiction to hear and decide the parties' motions. The orders and judgment entered while this appeal was pending are hereby vacated.


The case may be remanded to the Superior Court for further proceedings in accordance with this order.

Entered as an order of this Court, this 20<sup>th</sup> day of May 2019.

By Order,

/s/ Debra A. Saunders,

Clerk

Although “*pro se* litigants are often granted greater latitude by [a] court[,]” they are not exempt from our rules. *Terzian v. Lombardi*, 180 A.3d 555, 558 (R.I. 2018) (brackets omitted) (quoting  *Jacksonbay Builders, Inc. v. Azarmi*, 869 A.2d 580, 585 (R.I. 2005)). The plaintiff’s “failure to provide this Court with a sufficient transcript precludes a meaningful review and leaves us no alternative but to deny the appeal and uphold the [hearing] justice’s findings.” *Palange*, 243 A.3d at 784 (brackets and deletion omitted) (quoting *Calise v. Curtin*, 900 A.2d 1164, 1169 (R.I. 2006)).

Accordingly, we affirm the judgment of the Superior Court. The record may be returned to the Superior Court.

Entered as an Order of this Court this 20th day of December, 2022.

Justice Long did not participate.

All Citations

285 A.3d 734 (Mem)

STATE OF RHODE ISLAND  
PROVIDENCE, Sc

SUPERIOR COURT

RAHIM CALDWELL,     )  
Plaintiff,                     )  
V.                     ) C.A. No. PC-2019-09870  
JASON ANTHONY         )  
AND FREDERICK GHIO, )  
Defendants,                     )

JUDGMENT

Defendants' Motion to dismiss having been granted,  
Justice Darigan presiding, by Order dated October  
8, 2021, it is Ordered and Adjudicated that  
Judgment hereby enters against Plaintiff shall  
nothing and the matter is dismissed on the merits.

~~and the defendants shall recover of the plaintiff  
their costs of action.~~ (MED)

Dated at \_\_\_\_\_, Rhode Island this \_\_\_\_ day of  
\_\_\_\_\_, 2021

ENTER: /s/ Melissa Darigan

Presented by /s/ M. DARIGAN

BY ORDER:

/s/ Patricia Sisouphone

Deputy Clerk

/s/ Jeffrey S. Michaelson

Jeffrey S. Michaelson (#3299)

MICHAELSON & MICHAELSON

275 West Natick Road, Ste. 201

Warwick, RI 02886

(401)295-4330

(fax)295-5220

CERTIFICATE OF SERVICE

I hereby certify that, on the 8 day of October\_\_\_\_, 2021:

☐ I filed and served this document through electronic filing system on the following \_\_\_\_\_. The document electronically filed and served is available for viewing and or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I served this document through electronic filing system on the following: \_\_\_\_\_. The document electronically served is available for viewing and or downloading from Rhode Island Judiciary's Electronic Filing System.

X I mailed or ☐ hand-delivered this document to the attorney for the opposing party and /or the opposing party if self represented, whose name is Rahim Caldwell

At the following address \_\_\_\_ P.O. BOX 29660, Providence RI 02909\_\_\_\_\_

/s/ Jeffrey S. Michaelson

STATE OF RHODE ISLAND  
PROVIDENCE, Sc

SUPERIOR COURT

RAHIM CALDWELL,     )  
Plaintiff,                 )  
          V.                     ) C.A. No. PC-2019-09870  
JASON ANTHONY         )  
AND FREDERICK GHIO, )  
Defendants,                 )

ORDER

This matter came before the Court July 13, 2021 and October 7, 2021, Darigan J. presiding, on Defendants' Motion to Dismiss Amended Complaint, pursuant to Rule 12(b)(6), R.I.R. Civ. Proc., filed December 31, 2019. Upon consideration of the Memorandum and of the Memoranda and other documents submitted by the parties, the arguments presented at the hearings and for the

reasons stated from the bench at those hearings, it is hereby ORDERED as follows:

1. Defendants' Motion to Dismiss is Granted.
2. More specifically, as pertains to each Defendant, the Court rules as follows:

A. Jason Anthony

i.

All claims are dismissed for failure to state a claim upon which relief may be granted pursuant to principles of res judicata on account of proceedings in 2018-4590.

B. Frederick Ghio

- i. On their face, Counts 1-5, 8-11, 13-18 pertain only to Defendant Anthony and fail to state a claim upon which relief may be granted against Defendant Ghio;

ii

On their face, Counts 7 and 12 do not pertain to either defendant and fail to state a claim

upon which relief may be granted against  
Defendant Ghio;

iii.

Counts 6,19-36 are dismissed for failure to  
state a claim upon which relief may be  
granted against Defendant Ghio.

ENTER: /s/ Melissa Darigan

M. Darigan

BY ORDER: Patricia Sisouphone

Deputy Clerk

Submitted by,

/s/ Jeffrey Michaelson

Jeffrey s. Michaelson

MICHAELSON & MICHAELSON (#3299)

275 West Natick Road, Suite 201

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Jeff.michaelson.mm@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that, on the 8 day of October \_\_\_\_  
, 2021:

☐ I filed and served this document through  
electronic filing system on the following  
\_\_\_\_\_. The document electronically filed  
and served is available for viewing and or  
downloading from the Rhode Island Judiciary's  
Electronic Filing System.

☐ I served this document through electronic filing  
system on the following: \_\_\_\_\_

\_\_\_\_\_. The document  
electronically served is available for viewing and or  
downloading from Rhode Island Judiciary's  
Electronic Filing System.

X I mailed or ☐ hand-delivered this document to the  
attorney for the opposing party and /or the opposing  
party if self represented, whose name is Rahim  
Caldwell

At the following address \_\_\_\_ P.O. BOX 29660,  
Providence RI 02909\_\_\_\_\_

/s/ Jeffrey S. Michaelson

STATE OF RHODE ISLAND AND PROVIDENCE  
PLANTATIONS

PROVIDENCE SUPERIOR COURT

PC-2018-09870

RAHIM CALDWELL

V.

JASON ANTHONY

FREDERICK GHIO

**AMENDED**  
**COMPLAINT**

Plaintiff Rahim Caldwell claims both Jason Anthony as well as Frederick Ghio perpetrated violations of his Rhode Island state constitutional rights, his United States constitution constitutional rights under the due process clause of the fourteenth amendment, Rhode Island college student bill of rights, Academic Integrity board, including Student conduct board, When both Jason Anthony and Frederick Ghio made decisions that caused irreparable harm or injury to plaintiff's educational benefits at Rhode Island college including his liberty and property interests at Rhode Island college.

This controversy arises out of two decisions, one made on or about Wednesday May 2, 2018 by Jason Anthony, and the second on Friday May 4, 2018 by Frederick Ghio. Plaintiff enrolled in Rhode Island college at the start of the Fall 2017 semester, successfully completing the fall 2017 semester, and was in the process of completing his spring 2018 semester when defendants abruptly caused irreparable harm or loss to plaintiff's educational benefits at Rhode Island college. Jason Anthony used Rhode Island college Academic integrity board authority and sanctions, as well as Student Conduct code authority in his decision. Frederick Ghio used Rhode Island college student conduct board authority and code, as well as Rhode Island General Laws;12-3-1, 12-3-2, 11-44-26, 11-44-26.1 in his decision.

The decisions violated plaintiffs State constitutional rights, United States constitutional rights under the fourteenth amendment due process clause, plaintiff's rights under the Student bill of rights, Academic Integrity Board, Student Conduct board

The defendant's revocation of admissions letter did not contain any specified felonies or misdemeanors, only bald assertions the college received information plaintiff has been adjudicated or convicted of felonies or misdemeanors, absent any dates Jason Anthony received information about any felonies or misdemeanors in connection with plaintiff, as mentioned in the letter.

There was also a meeting of the minds that took place on Tuesday May 1, 2018 in Roberts Hall,

OFFICE OF THE PRESIDENT, BOARD OF  
GOVERNOR'S OFFICE, these two decisions  
subsequently followed this meeting of the minds.

On Wednesday May 2, 2018 Jason Anthony  
(currently employed by Rhode Island college, as  
Director of admissions) made a unilateral, arbitrary  
decision by issuing a revocation of admissions letter  
causing irreparable harm or loss to plaintiff's  
educational benefits at Rhode Island college including  
plaintiff's liberty and property interests in public  
education at Rhode Island college. A letter, unverified  
formally by Rhode Island college. The decision is not a  
hold as an official transaction on plaintiff's official  
transaction account.

## COUNT 1

The decision by Jason Anthony made against plaintiff issuing a revocation of admissions letter that caused irreparable harm to plaintiff's educational benefits without due process of law, which plaintiff has both a liberty and property interest was wrong because the decision is inconsistent with and violated plaintiff's rights under

1. State of Rhode Island constitution Article I, Section 2, which states: No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied equal protection of the laws.

Exhibit "A"

Exhibit "C"

See Exhibits A-K

## COUNT 2

The decision by Jason Anthony against plaintiff in issuing a revocation of admissions without a hearing, any appeal, any charges established with the college's judicial system, and college judicial procedure was wrong because the decision is inconsistent with and violated plaintiff's rights under

2. State of Rhode Island constitution Article 1, Section 5, which states: Every person within this state ought to find a certain remedy by having recourse to the laws, for all wrongs which may be received in one's person, property, or character. Every person ought to obtain right and justice, freely, and without purchase, and without denial, promptly and without delay; conformably to the laws.

Exhibit "A"

See Exhibits A-K

### COUNT 3

The decision by Jason Anthony to issue a trespass notice plaintiff contained a punishment not proportioned to the offense, and was wrong because the decision is inconsistent with and violated plaintiff's rights under

3. State of Rhode Island constitution Article 1, Section 8, which states: punishments ought to be proportioned to the offense.



Exhibit "A"

See Exhibits A-K

#### COUNT 4

The decision by Jason Anthony prejudging guilt on plaintiff, while plaintiff, presumed to be innocent was wrong because Jason Anthony's decision is inconsistent with and violates

4. Article 1, Section 14 which states: Every person being presumed innocent, until pronounced guilty by the law, no act of severity which is not necessary to secure an accused person shall be permitted.

Exhibit "A"

See Exhibits A-K

#### COUNT 5

The decision by Jason Anthony to issue a revocation of admissions on a letter in the form of a paper transaction against plaintiff was

wrong because the decision is inconsistent with  
and violated plaintiff's rights under

5. State of Rhode Island constitution Article VI, Section 1, which states: This constitution shall be the Supreme law of the state, and any law inconsistent therewith shall be void.

See Exhibits A-K

#### COUNT 6

The decision by Frederick Ghio to issue a trespass notice is not an official transaction as a hold on plaintiff's official account, the decision is wrong because

6. The document which shows official holds on plaintiff's account does not show this transaction as a hold on plaintiff's official transaction account.

Exhibit "I"

#### COUNT 7

- 7.

Exhibit "J"

See Exhibits A-K

#### COUNT 8

The decision by Jason Anthony issuing a revocation of admissions letter caused irreparable loss or harm to plaintiff's educational benefits **without due process of law**, plaintiff has a property interest, as well as liberty interest in public education, Jason Anthony's decision to issue a revocation of admissions letter was wrong because the decision is inconsistent with and violated plaintiff's rights under

8. Fourteenth amendment, Section 1 of The United States constitution due process clause which states:

states that **no person shall be "deprived of life, liberty, or property without due process of law; nor deny any person within its jurisdiction equal protection of the laws"**

Exhibit "B"

See Exhibits A-K

## COUNT 9

The decision by Jason Anthony against plaintiff to handle adjudication of Academic integrity is not **cognizable**, as **Formal adjudication of allegations of academic integrity is conducted by the Academic integrity board**, also defendants have not filed any charge, defendants only used the "violation of academic dishonesty " to circumvent the established college judicial system, to circumvent established college judicial procedures, to deny plaintiff any due process, to deny any procedural due process, the decision by Jason Anthony was wrong because the decision is inconsistent with and violates

### 9. ACADEMIC INTEGRITY BOARD

#### 3.9.1

D. Adjudicating Alleged violations of Academic Integrity

**Formal adjudication of alleged violations of academic integrity is conducted by the Academic Integrity Board**

(e) Academic Integrity Board Role

The council of Rhode Island college created the Academic Integrity Board( AIB),

It is authorized to hear and adjudicate charges against individual students in cases of violations of academic integrity.....

See Exhibit "D"

See Exhibits A-K

COUNT 10

The decision by Jason Anthony in prejudging to issue a sanction in the form of "**revocation of admissions**" without **student conduct board executive session** to determine guilt and

imposition of sentence against plaintiff was sanction letter e. Revocation of Admissions, including the fact as complainant failing his burden of going forward, was wrong because the decision is inconsistent with and violated plaintiff's rights under

#### 10.2017-2018 Student conduct code

### **STUDENT CONDUCT CODE**

**General Principles** All members of the campus community share a responsibility for maintaining and enhancing an environment guided by mutual respect, high standards of integrity, and reason. To that end the College has established this Student Conduct Code, which outlines standards of behavior that promote the safety and welfare of the Rhode Island College community. Rhode Island College expects that all students will abide by the policies of the College as well as state, local, and federal laws. Criminal activity occurring on campus will normally be reported to the appropriate law enforcement agency.

**Applicability of Code** the Student Conduct Code applies to all undergraduate, graduate, full-time and

part-time students at Rhode Island College registered for class and all currently recognized student organizations. The Code also applies to persons who withdraw from the College after allegedly violating the Student Conduct Code, who are not officially enrolled for a particular term but are eligible to return and have not attended another post-secondary institution while not registered for classes at Rhode Island College, or who have been notified of their acceptance for admission and paid an enrollment deposit but may not have taken a class at the College yet. In such cases, a student may be prevented from re-enrolling or may be readmitted with certain restrictions until the case is resolved. Student behavior occurring off campus that is in violation of the Code or local, state, or federal laws that may adversely affect the College or its relationship with the surrounding community may subject students and/or student organizations to college discipline.

## **CODE OF CONDUCT**

### **ADJUDICATING ALLEGATIONS OF STUDENT MISCONDUCT**

**Formal adjudication** of alleged violations of the Student Conduct Code is conducted by the Student Conduct Board ...

**a. Report Initiation.** Any member of the College community may file a report with the Dean of Students Office or Campus Police accusing a student of violating the Student Conduct Code. The complaint shall normally be in writing and filed promptly following the complainant's learning of the alleged misconduct. Where an allegation concerns both academic and non-academic misconduct the adjudication shall be assigned to either the Student Conduct Board or the Academic Integrity Board at the discretion of the Vice President for Academic Affairs and Dean of Students.

**d. Hearing Procedures for Formal Adjudication**

Absent extraordinary circumstances, the appropriate hearing officer (e.g.



Dean of Students, Chair of the Student Conduct Board) shall operate in accordance with the following:

2.) The hearing officer shall schedule the time, date and place of the hearing(s), to be held normally at least five days following the student's/student organization's notification but normally within thirty days. The hearing officer shall rule on any other procedural matters raised by either party.

3.) Any documentary evidence not shared in advance of the hearing shall, absent extraordinary circumstances, be excluded.

The decision by Jason Anthony in prejudging to issue a sanction in the form of "revocation of admissions" without student conduct board executive session to determine guilt and imposition of sentence against plaintiff was sanction letter e. Revocation of Admissions was wrong because the decision is inconsistent with and violated plaintiff's rights under

7.) The Student Conduct Board's deliberations concerning the determination of guilt and the imposition of sanctions shall be conducted in executive session.

13.) A recording shall be made of the hearing and shall be made available to the accused student upon request to formulate an appeal only. Normally, this request will be fulfilled by arranging for the party to listen to the recording.

14.) The hearing body shall make its decision(s) solely on the evidence presented and arguments made at the hearing. If the accused student/student organization fails to appear the hearing shall proceed and consider whatever evidence is presented.

15.) The complainant shall have the burden of going forward.

The decision by Jason Anthony in prejudging to issue a sanction in the form of “revocation of admissions” without student conduct board executive session to determine guilt and imposition of sentence against plaintiff was sanction letter e. Revocation of Admissions was wrong because the decision is inconsistent with and violated plaintiff’s rights under

**e. Sanctions** An individual found responsible for violating the Student Conduct Code is subject to one or more of the following sanctions.

**J. Revocation of Admission**

Exhibit “E”

See Exhibits A-K

## COUNT 11

The decision by Jason Anthony to use admissions policies within in 2017-2018 college handbook i n his decision to issue a revocation of admissions under admissions policies was wrong because the decision is inconsistent and violates plaintiff's rights under

11. Rhode Island college Student Bill of Rights Article III, Section 1, which states: This non-discrimination policy encompasses operation of the college's educational programs and activities INCLUDING ADMISSIONS POLICIES..

Rhode Island College is committed to taking affirmative action to ensure that this nondiscrimination policy is effectively observed in all the College's endeavors.

## Exhibit "F"

The decision by Jason Anthony to subject plaintiff to serious penalties by issuing revocation of dmissions letter, without affording plaintiff a formal hearing before the established college judicial system was

wrong because the decision is inconsistent and violates

See Exhibits A-K

#### COUNT 12

12. Rhode Island college Student Bill of Rights Article VI, Section 1, which states: When misconduct may result in **serious penalties** the student is entitled to a **formal hearing before the established college judicial system.**

Exhibit "F"

#### COUNT 13

The decision by Jason Anthony to issue a revocation of admissions letter, without a **provision for appeal of a decision** was wrong because the decision is inconsistent with and violates

Article VI, Section 1

13. In all situations, procedural fair play requires that the student be informed of the nature of the charges...., that the institution not be arbitrary in its actions, and that there be **a provision for appeal of a decision.**

Exhibit "F"

See Exhibits A-K

COUNT 14

The decision to issue a trespass notice by Jason Anthony against plaintiff to not institute charges through the established college judicial system, was wrong because the decision is inconsistent with and violated plaintiff's rights under

14. Rhode Island college Student Bill of Rights Article VII, Section 3, which states: If the student is accused of violating a campus regulation, charges

will be instituted through the  
established college judicial system.

Exhibit "F"

See Exhibits A-K

#### COUNT 15

The decision by Jason Anthony to punish plaintiff for an action before the college instituted regulations which prohibited said action was wrong because the decision is inconsistent with and violated plaintiff's rights under

15. Rhode Island college Student Bill of Rights Article VII, Section 4, which states: No student shall be punished for an action, if such action was committed before the college instituted regulations which prohibited said action.

Exhibit " F"

See Exhibits A-K

#### COUNT 16

The decision by Jason Anthony to issue a revocation of admissions, which on its face appears to alter **status of a student**, in this instant case, plaintiff's **status as a student** absent of charges, including failure to act in accordance with established college judicial procedures which shall provide for an appeal was wrong because the decision is inconsistent with and violated plaintiff's rights under

16. Rhode Island college Student Bill of Rights Article VII, Section 5, which states: **The status of a student shall not be altered, nor shall the students right to be on campus to attend classes and to participate in college activities be suspended until disposition of charges are made...**

Any exceptions shall be in accordance with the established college judicial procedures which shall provide for an appeal.

Exhibit "F"



See Exhibits A-K

#### COUNT 17

The decision by Jason Anthony to issue a revocation of admissions based on “a violation of academic dishonesty”, was wrong because the decision is inconsistent with and violated plaintiff’s rights under

17. The Academic Integrity Board policy, which states: “It is authorized to hear and adjudicate allegations of academic integrity”

See Exhibit ” F“

See Exhibits A-K

#### COUNT 18

The decision by Jason Anthony was wrong  
because it is inconsistent with and violates  
plaintiff's rights under

18. Rhode Island college Academic Integrity  
Board which states "Formal adjudication  
of allegations of academic dishonesty are  
handled by the Academic Integrity Board.

Exhibit "F"

See Exhibits A-K

---

FREDERICK GHIO

On Friday May 4 2018 Frederick Ghio (former  
employed by Rhode Island college ,employed, as  
Director of campus security/ chief of campus police on  
the date of event) made a unilateral, arbitrary decision  
by issuing a revocation of admissions letter causing

irreparable harm or loss to plaintiff's educational benefits at Rhode Island college including plaintiff's liberty and property interests at Rhode Island college. A Trespass notice, unverified formally by Rhode Island college. The decision is not a hold on plaintiff official transaction account. The trespass notice references Report # 18-156-OF. Frederick Ghio hand-delivered the revocation of admissions letter to plaintiff, however Frederick Ghio did not provide plaintiff with actual evidence of the felonies or misdemeanors claim listed within the letter on or about 5/2/18. Frederick Ghio also hand-delivered the Trespass notice to plaintiff on 5/4/18, however Frederick Ghio did not provide Plaintiff with report #18-156-OF.

COUNT 19

The decision by Frederick Ghio to issue a Trespass notice deprived plaintiff of liberty or property, causing irreparable harm or injury to plaintiff's educational benefits at Rhode Island college without due process of law was wrong because the decision is inconsistent with and violated plaintiff's rights under

19. State of Rhode Island constitution Article I, Section 2, which states: No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied equal protection of the laws.

Exhibit "A"

Exhibit "I"

Exhibit "J"

See Exhibits A-K

## COUNT 20

The decision by Frederick Ghio to issue a trespass notice is not an official transaction as a hold on plaintiff's official account, the decision is wrong because

20. The document which shows official holds on plaintiff's account does not show this transaction as a hold on plaintiff's official transaction account.

Exhibit "T"

#### COUNT 21

The decision by Frederick Ghio to issue a trespass notice against plaintiff without any hearing, any appeal, any college judicial system, any college judicial procedures, any remedy was wrong because the decision is inconsistent with and violated plaintiff's rights under

21. State of Rhode Island constitution Article 1, Section 5, which states: Every person within this state ought to find a certain remedy by having recourse to the laws, for all wrongs which may be received in one's person, property, or character. Every person ought to obtain right and justice, freely, and without purchase, and without denial, promptly and without delay; conformably to the laws.

Exhibit "A"

See Exhibits A-K

COUNT 22

The decision by Frederick Ghio to issue a trespass notice on plaintiff contained a punishment not **proportioned** to the offense was wrong because the decision is inconsistent with and violated plaintiff's rights under

22. State of Rhode Island constitution Article 1, Section 8, which states: punishments ought to be proportioned to the offense.

Exhibit "A"

See Exhibits A-K

COUNT 23

The decision by Frederick Ghio to issue a trespass notice against plaintiff was wrong because the decision is inconsistent with and violated plaintiff's rights under

23. State of Rhode Island constitution Article VI, Section 1, which states: This

constitution shall be the Supreme law of the state, and any law inconsistent therewith shall be void.

Exhibit "A"

See Exhibits A-K

#### COUNT 24

The decision by Frederick Ghio to use RIGL criminal offenses as authority to issue a trespass notice, is not **cognizable**, outside of Rhode Island district or Rhode Island superior court, RIGL 11-44-26 is a criminal offense, which is governed by RIGL 12-3-1, and 12-3-2 which was wrong because the decision is inconsistent with

TITLE 11  
Criminal Offenses  
CHAPTER 11-44  
Trespass and Vandalism  
SECTION 11-44-26

**§ 11-44-26. Willful trespass – Remaining on land after warning – Exemption for tenants holding over.**

(a) Every person who willfully trespasses or, having no legitimate purpose for his or her presence, remains upon the land of another or upon the premises or curtilage of the domicile of any person legally entitled to the possession of that domicile, after having been forbidden to do so by the owner of the land or the owner's duly authorized agent or a person legally entitled to the possession of the premises, **shall be punished by a fine not exceeding one thousand dollars (\$1,000), or imprisonment for a term not exceeding one year, or both.**

(b) **This section shall not apply to tenants or occupants of residential premises who, having rightfully entered the premises at the commencement of the tenancy or occupancy, remain after that tenancy or occupancy has been or is alleged to have been terminated. The owner or landlord of the premises may recover possession only through appropriate civil proceedings.**



Exhibit "G"

See Exhibits A-K

#### COUNT 25

The decision by Frederick Ghio to use RIGL criminal offenses as authority to issue a trespass notice, is not **cognizable**, outside of Rhode Island district or Rhode Island superior court, also 26.1 is for mandatory minimum fine of \$50 for the first offense, against plaintiff was wrong because the decision is inconsistent with

24. with RIGL 11-44-26.1 as this criminal offense is for Mandatory minimum fine for willful trespass within school buildings.

**§ 11-44-26.1. Mandatory minimum fine for willful trespass within school buildings.**

Exhibit "G"

See Exhibits A-K

## COUNT 26

The decision by Frederick Ghio to issue a trespass notice under authority of RIGL criminal offenses as authority to issue a trespass notice, is not **cognizable**, outside jurisdiction of Rhode Island district or Rhode Island superior court, RIGL criminal offenses specifically RIGL 11-44-26.1 have legal force only when RIGL Criminal procedures 12-3-1 is used by the courts to **Try, render Judgment, pass sentence, and award a warrant for execution** against plaintiff was wrong because the decision is inconsistent with

## 25. TITLE 12 Criminal Procedure

CHAPTER 12-3

Jurisdiction and Venue of Offenses

SECTION 12-3-1

**§ 12-3-1. Offenses triable by district court.**

The district court shall have jurisdiction and **cognizance** of all crimes which are not expressly designated as felonies, offenses, misdemeanors, and violations, including offenses against town or city ordinances, if no special court exists or is created by charter or law for that purpose, punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one year, or both, and of all other criminal matters which are or shall be declared specially to be within the jurisdiction of the court by the laws of the state, which shall legally be brought before the court, with power to try, render judgment, pass sentence, and award a warrant for execution of the sentence.

Exhibit "G"

See Exhibits A-K

COUNT 27

The decision by Frederick Ghio to issue a Trespass notice using RIGL criminal offenses 11-44-26 as authority to issue a trespass notice, is not **cognizable** under Rhode Island General laws criminal offenses, or RIGL Criminal procedures, outside of Rhode Island district or Rhode Island superior court, was wrong because the decision is inconsistent with and violated plaintiff's rights under

The decision by Frederick Ghio to use Rhode Island General laws 11-44-26. **Willful trespass against** plaintiff was wrong because the decision is inconsistent with

26. TITLE 12

Criminal Procedure

CHAPTER 12-3

Jurisdiction and Venue of Offenses

SECTION 12-3-2

**§ 12-3-2. Power of district court over preliminary proceedings – Venue of offenses on public waters.**

The district court for the division in which the court is situated shall have cognizance over all other crimes, offenses, and misdemeanors against the laws of the state other than those mentioned in § 12-3-1, which shall be done or committed within the division and legally brought before the court, and may cause all persons guilty or suspected to be guilty to be apprehended, examined, bailed, or committed to jail, according to law, **to answer for the offense before the superior court**, and the jurisdiction over crimes, offenses and misdemeanors....

Exhibit "G "

See Exhibits A-K

COUNT 28

The decision by Frederick Ghio to issue a trespass notice under authority of RIGL criminal offenses as authority to issue a trespass notice, is not **cognizable**, outside

jurisdiction of Rhode Island district or Rhode Island superior court, RIGL criminal offenses specifically RIGL 11-44-26.1 have legal force only when RIGL Criminal procedures 12-3-1 is used by the courts to **Try, render Judgment, pass sentence, and award a warrant for execution** against plaintiff was wrong because the decision is inconsistent with

TITLE 11

Criminal Offenses

CHAPTER 11-1

General Provisions

SECTION 11-1-2

**§ 11-1-2. Felony, misdemeanor – Petty misdemeanor, and violation distinguished.**

Unless otherwise provided, any criminal offense which at any given time may be punished by imprisonment for a term of more than one year, or by a fine of more than one thousand dollars (\$1,000), is declared to be a felony; any criminal offense which may be punishable by imprisonment for a term not exceeding one year, or by a fine of not more than one thousand dollars (\$1,000), or both, is declared to be a misdemeanor;

any criminal offense which may be punishable by imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars (\$500), or both, is declared to be a petty misdemeanor; and any offense which may be punished by only a fine of not more than five hundred dollars (\$500) is declared to be a violation.

History of Section.

(G.L. 1938, ch. 625, § 74; P.L. 1941, ch. 983, § 1; P.L. 1956, ch. 3721, § 3; G.L. 1956, § 11-1-2; P.L. 1971, ch. 115, § 1; P.L. 1976, ch. 173, § 1; P.L. 1979, ch. 222, § 1; P.L. 1985, ch. 462, § 3.)

Exhibit "G"

See Exhibits A-K

#### COUNT 29

The decision by Frederick Ghio issuing a trespass notice caused irreparable loss or harm to plaintiff's educational benefits without due process of law, plaintiff has a property interest, as well as liberty interest in public education, as well as use of Rhode Island college for events available to the public in general, as well as to the public facilities of RIC in general available to the general public, Fredrick Ghio's

decision to issue a Trespass notice was wrong because the decision is inconsistent with and violated plaintiff's rights under

27. Fourteenth amendment, Section 1 of The United States constitution due process clause which states:

states that no person shall be "deprived of life, liberty, or property without due process of law; nor deny any person within its jurisdiction equal protection of the laws"

Exhibit "B"

See Exhibits A-K

### COUNT 30

The decision by Frederick Ghio to issue a serious penalty, a Trespass notice against plaintiff, without a formal hearing before the established college judicial system, and making a decision without a provision for appeal of a decision was wrong because the decision is inconsistent with and violated plaintiff's rights under



28. Rhode Island college Student Bill of Rights Article VI, Section 1, which states:

When misconduct may result in serious penalties the student is entitled to a formal hearing before the established college judicial system.

In all situations, procedural fair play requires that the student be informed of the nature of the charges....,

that the institution not be arbitrary in its actions, and that there be a provision for appeal of a decision.

Exhibit "F"

See Exhibits A-K

### COUNT 31

The decision by Frederick Ghio to not provide plaintiff with the actual report # 18-156-OF made a, which is referenced in the Trespass notice was wrong because the decision is inconsistent with

29. Rhode Island college Student bill of rights  
Article VI, Section 1, which states:

In all situations, procedural fair play  
requires that the student be informed of the  
nature of the charges....,

that the institution not be arbitrary in its  
actions...

See Exhibit " F"

See Exhibits A-K

#### COUNT 32

The decision by Jason Anthony made against  
plaintiff was wrong because the decision is  
inconsistent with and violated plaintiff's rights  
under

30. Rhode Island college Student Bill of  
Rights Article VII, Section 3, which  
states: If the student is accused of  
violating a campus regulation, charges  
will be instituted through the  
established college judicial system.

Exhibit "F"

See Exhibits A-K

COUNT 33

The decision by Frederick Ghio to issue a trespass notice, which punished plaintiff for an action, before the college instituted regulations which prohibited said action of plaintiff was wrong because the decision is inconsistent with and violated

31. Rhode Island college Student Bill of Rights Article VII, Section 4, which states:

**No student shall be punished for an action, if such action was committed before the college instituted regulations which prohibited said action.**

Exhibit " F"

See Exhibits A-K

COUNT 34

The decision by Frederick Ghio to issue a trespass notice suspending plaintiff's right to be on campus to attend classes and to participate in college activities until disposition of charges are made, including failure to comply with established college judicial procedures was wrong because the decision is inconsistent with and violated

32. Rhode Island college Student Bill of Rights Article VII, Section 5, which states: The status of a student shall not be altered, nor shall the **students right to be on campus to attend classes** and to participate in college activities be suspended until disposition of charges are made...

Any exceptions shall be in accordance with the established college judicial procedures which shall provide for an appeal.

Exhibit "F"

See Exhibits A-K

The decision by Frederick Ghio to use student conduct board authority and **e. sanctions, O. Trespass** was wrong because the decision is inconsistent with and violates plaintiff's rights under

2017-2018 Student conduct code

## **STUDENT CONDUCT CODE**

**General Principles** All members of the campus community share a responsibility for maintaining and enhancing an environment guided by mutual respect, high standards of integrity, and reason. To that end the College has established this Student Conduct Code, which outlines standards of behavior that promote the safety and welfare of the Rhode Island College community. Rhode Island College expects that all students will abide by the policies of the College as well as state, local, and federal laws. Criminal activity occurring on campus will normally be reported to the appropriate law enforcement agency.

### **Applicability of Code**

The Student Conduct Code applies to all undergraduate, graduate, full-time and part-time students at Rhode Island College registered for class

and all currently recognized student organizations. The Code also applies to persons who withdraw from the College after allegedly violating the Student Conduct Code, who are not officially enrolled for a particular term but are eligible to return and have not attended another post-secondary institution while not registered for classes at Rhode Island College, or who have been notified of their acceptance for admission and paid an enrollment deposit but may not have taken a class at the College yet. In such cases, a student may be prevented from re-enrolling or may be readmitted with certain restrictions until the case is resolved. Student behavior occurring off campus that is in violation of the Code or local, state, or federal laws that may adversely affect the College or its relationship with the surrounding community may subject students and/or student organizations to college discipline.

Exhibit "F"

See Exhibits A-K

## CODE OF CONDUCT

## **ADJUDICATING ALLEGATIONS OF STUDENT MISCONDUCT**

**Formal adjudication** of alleged violations of the **Student Conduct Code** is conducted by the Student Conduct Board

a. Report Initiation. Any member of the College community may file a report with the Dean of Students Office or Campus Police accusing a student of violating the Student Conduct Code. The complaint shall normally be in writing and filed promptly following the complainant's learning of the alleged misconduct. Where an allegation concerns both academic and non-academic misconduct the adjudication shall be assigned to either the Student Conduct Board or the Academic Integrity Board at the discretion of the Vice President for Academic Affairs and Dean of Students.

13.) A recording shall be made of the hearing and shall be made available to the accused student upon request to formulate an appeal only. Normally, this request will be fulfilled by

arranging for the party to listen to the recording.

14.) The hearing body shall make its decision(s) solely on the evidence presented and arguments made at the hearing. If the accused student/student organization fails to appear the hearing shall proceed and consider whatever evidence is presented.

**e. Sanctions** An individual found responsible for violating the Student Conduct Code is subject to one or more of the following sanctions.

**O. Trespass** A suspension of a student's right to enter a specific building on University property, locations on campus, or all of the University of Rhode Island campuses. When appropriate, a trespass notice may include the suspension of a student's right to represent 35 the University at University-sponsored or related events. When a trespass notice is given, the student will receive a detailed explanation of the parameters of this trespass. In the event there is a report that the student has violated the trespass, it will be recommended to the Vice President for Student Affairs that the student be Emergency Suspended, as defined in the Student Handbook.

Exhibit "E"

See Exhibits A-K



Student conduct board authority

XXI. Article on the STUDENT  
CONDUCT BOARD

A. Powers and Duties

The Board shall:

1. Establish, publish, and implement procedures for adjudicating alleged conduct by students contrary to policies and regulations of the College and to regulations established by other lawful authorities, or breaching the rights of other persons. These procedures shall protect the rights of all parties. The Board shall emphasize the substance of issues rather than the technicalities.
2. **Be authorized to hear and adjudicate charges against individual students** or student organizations in accordance with the provisions of paragraph A.1.
3. **Be authorized to assess penalties** including, but not limited to, reprimands, suspension or cancellation of privileges, probation suspension, and expulsion

when an individual or organization is found responsible for violating said policies and regulations.

Current as of 4/10/2013 p. 30

4. Oversee the administration of behavioral discipline of the College to insure compatibility and fairness.

See Exhibit "E"

See Exhibit "K"

See Exhibits A-K

#### COUNT 35

The decision by Frederick Ghio not to issue a criminal summons against plaintiff... returnable to the district court where the violation occurs... as provided by law... against plaintiff was wrong because the decision is inconsistent with

Education

CHAPTER 16-52

Maintenance of Order on Campus [See Title 16 Chapter 97 – The Rhode Island Board of Education Act]

SECTION 16-52-2

## COUNT 36

The decision by Frederick Ghio to issue a trespass notice under authority of RIGL criminal offenses as authority to issue a trespass notice, is not **cognizable**, outside jurisdiction of Rhode Island district or Rhode Island superior court, RIGL criminal offenses specifically RIGL 11-44-26.1 have legal force only when RIGL Criminal procedures 12-3-1 is used by the courts to **Try, render Judgment, pass sentence, and award a warrant for execution** against plaintiff was wrong because the decision is inconsistent with

### 33. § 16-52-2. Appointment of campus police.

The campus police officers shall protect the property of each college or university, suppress nuisances and disturbances and breaches of the peace, and enforce laws and regulations for the preservation of good order. They shall have the same powers and authority as that conferred upon municipal police officers, **including the power to arrest persons for violations of state criminal statutes....** Additionally, any campus police officer observing the violation...

may issue a summons.... returnable to the  
district court... where the violation occurs... as  
provided by law.

Exhibit "H"

See Exhibits A-K

12/3/19

RAHIM CALDWELL

V.

JASON ANTHONY

PC-2019-09870

CERTIFICATION

I Rahim Caldwell certify that a copy of the document,  
and this certification were delivered by first class mail  
on or about 12/4/19 to:

Jeffrey Michaelson  
70 Romano Vineyard  
Suite 117  
North Kingstown, RI 02852

12/4/19

/S/ RAHIM CALDWELL

14<sup>th</sup> Amendment U.S. Constitution US Law LII / Legal  
Information Institute

LII > U.S. Constitution > 14<sup>th</sup> Amendment

14<sup>th</sup> Amendment

The Fourteenth Amendment addresses many aspects of citizenship and the rights of citizens. The most commonly used -- and frequently litigated -- phrase in the amendment is "equal protection of the laws", which figures prominently in a wide variety of landmark case, including *Brown v. Board of Education* (racial discrimination), *Roe v. Wade* (reproductive rights), *Bush v. Gore* (election recounts), *Reed v. Reed* (gender discrimination), and *University of California v. Bakke* (racial quotas in education). See more...

Amendment XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law;

nor deny to any person within its jurisdiction the equal protection the equal protection of the laws.

## Section 2.

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed.

But when the right to vote at any election for the choice of electors for president and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislative thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way

Webserver.rilin.state.ri.us/RiConstitution/ConstFull.html

## CONSTITUTION OF THE STATE OF RHODE ISLAND

We, the people of this State which shall henceforth be known as the state of Rhode Island, grateful to Almighty God for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and to transmit the same, unimpaired, to succeeding generations, do ordain and establish this constitution of government.

### ARTICLE I

#### DECLARATION OF CERTAIN CONSTITUTIONAL RIGHTS AND PRINCIPLES

In order effectually to secure the religious and political freedom established by our venerated ancestors, and to preserve the same for our posterity, we do declare that the essential and unquestionable rights and principles hereinafter mentioned shall be established, maintained, and preserved, and shall be of paramount obligation in all legislative, judicial and executive proceedings.



Section 1. Right to make and alter Constitution ---  
Constitution obligatory upon all.

In the words of the Father of his Country, we declare that "the basis of our political systems is the right of the people to make and alter their constitutions of government; but that the constitution which at any time exists, till changed by an explicit and authentic act of the whole people; is sacredly obligatory upon all."

Section 2. Laws for good of whole -- Burdens to be equally distributed -- Due process -- Equal protection -- Discrimination -- No right to abortion granted.

All free governments are instituted for the protection, safety, and happiness of the people, All laws, therefore, should be made for the good of the whole; and burdens of the state ought to be fairly distributed among its citizens. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws. No otherwise qualified person shall, solely by reason of race, gender or handicap be subject to discrimination by the state, its agents or any person or entity doing business with the state. Nothing in this section shall be construed to grant or secure any right relating to abortion or the funding thereof.

### Section 3. Freedom of religion.

Whereas Almighty God hath created the mind free;  
and all attempts to influence it by temporal  
punishments or burden, or by civil incapacitations,  
tend to beget habits of hypocrisy and meanness

and whereas a principal object of our venerable  
ancestors, in the migration to this country and their  
settlement of this state, was, as they expressed it, to  
hold forth a lively experiment that a flourishing civil  
state may stand and be best maintained with full  
liberty in religious concerns; we, therefore,  
declare that no person shall be compelled to frequent  
or to support any religious worship, place, or ministry

Whatever, except in fulfilment of such person's  
voluntary contract; nor enforced, restrained, molested,  
or burdened in in body or goods; nor disqualified from  
holding any office; nor otherwise suffer on account of  
such person's conscience, and to profess and by  
argument to maintain such person's opinion in matters  
of religion; and that the same shall in no wise  
diminish, enlarge, or affect the civil capacity of any  
person.

### Section 4. Slavery prohibited.

Slavery shall not be permitted in this state.

Section 5. Entitlement to remedies for injuries and wrongs --- Right to justice.

Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which may be received in one's person, property, or character. Every person ought to obtain right and justice freely, and without purchase, completely and without denial; promptly and without delay; conformably to the laws.

Section 6. Search and Seizure.

The right of the people to be secure in their persons, papers and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but on

## Appendix I

### RHODE ISLAND COLLEGE 2017-2018 Student Handbook

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Want to graduate in 4 years?  
Take at least 15 credits/semester  
Same tuition for 12-18 credits!

## SECTION I: STUDENT RIGHTS

## Student Bill of Rights

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Preamble: Rhode Island College students possess and retain the inalienable rights granted them by the United States Constitution. Attendance at Rhode Island College does not revoke any of these rights. This academic and social institution does not deny those rights to any students. The Rhode Island College Student Bill of Rights contains 13 articles outlining these rights as well as student responsibilities.

### Article I: Freedom of Expression and Association

Section 1. Students shall be free to examine and discuss all questions of interest to them and to express opinions publicly and privately. They shall always be free to support causes by orderly means (such as: assembly and petition) which do not disrupt the regular and essential operation of the institution. Such actions as disrupting class, damaging/defacing property, or racial/sexual attacks and illegal harassment will not be tolerated.

Section 2. Students shall have the right to assemble and to use the facilities of the College in accordance with its rules. In their public expressions or demonstrations, students speak only for themselves, and do not represent the views of the institution, the

rest of the student body, or of Student Community Government, Inc.

Section 3. Students may invite and hear any person of their own choosing. These routine procedures required by the College for the appearance of a guest speaker on campus shall be designed only to insure that there is orderly scheduling of facilities and adequate preparation and security for the event. Sponsorship of guest speakers does not imply approval or endorsement of the views expressed, either by the sponsoring group, the institution, the rest of the student body, or of the Rhode College Student Community Government, Inc.

Section 4. Institutional control of campus facilities shall not be used as a device of censorship.

## Article II. Freedom of Communication

Section 1. Student publications and means of communication ( such as, but limited to: The Anchor, RIC Radio WXIN, Anchor TV, and Shoreline magazine), which are legitimately accessible to students, shall be subject to existing laws governing public communication and electronic media.

Section 2. The editors and managers such as, but not limited to the aforementioned groups shall not be arbitrarily suspended because of student, faculty, administration, alumni, or community disapproval of editorial policy or content. The editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsible journalism and applicable regulations of the Federal Communications Commission.

Section 3. All student communications shall explicitly state that the opinions expressed are not necessarily those of the institution, the rest of the Student Body, or of Rhode Island College Student Community Government, Inc.

Section 4 Students may distribute written on campus without prior approval providing such distribution does not interfere with the rights of others or disrupt the regular and essential operation of the institution.

### Article III: Freedom from Discrimination

Section 1. Pursuant to the philosophy of the Board of Governors for Higher Education, Rhode Island College and its administration, the college does not illegally discriminate on the basis of race, color, creed, national or ethnic origin, gender, religion, disability, age, sexual orientation, gender identity, disabled veteran, veteran

of the Vietnam Era, or citizenship status. This non-discrimination policy encompasses the operation of the College's educational programs and activities including admissions policies, scholarship and loan programs, athletic and all other programs; it also encompasses the employment of College personnel and contracting by the College for goods and services. Rhode Island College is committed to taking affirmative action to ensure that this non-discrimination policy is effectively observed in all the College's endeavors.

Section 2. Membership in all institution-related organizations shall be open to any member of the institution community who is willing to subscribe to the stated goals and meet the stated obligations of the organization.

#### Article IV: Student Participation in campus Governance

Section 1. As constituents of the academic community, students shall be free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the Student Body. The students shall have clearly defined means and appropriate representation in the formation and application of institutional policy affecting academic and student affairs. The role of Student Community Government, Inc. And both its general and specific



responsibilities shall be made explicit, and the actions of the Rhode Island College Student Community Government, Inc. within the areas of its jurisdiction should be reviewed only through the Office of Student Life.

#### Article V: Notice of Rules

Section 1. No sanction may be imposed for violations of rules and regulations for which there is not actual or constructive notice. Those rules and regulations, including the range of punishment that may be imposed, must be published and be made available. The college community shall be informed that such rules and regulations are available, in the Student Handbook, which is available on the college website through Office of Student life.

#### Article VI: Freedom from Disciplinary Action without Due Process

Section 1. when misconduct may result in serious penalties, the student is entitled to a formal hearing before the established College judicial system. In all situations, procedural fair play requires that the student be informed of the nature of the charges and be given a fair opportunity to refute them, that the institution not be arbitrary in its actions, and that there be provision for appeal of a decision. The rules and procedures of the established College judicial system are published in the Student Handbook. The

college community shall be informed that a statement of such rules and procedures is available.

#### Article VII: Violation of Law and College Discipline

Section 1. If the student is charged with, or convicted of an off-campus violation of law, the matter shall be of no disciplinary concern to the College, except as provided in Section 5, Section 6, or Section 7 of this Article. In any event, the student is subject to the academic regulations of the College.

Section 2. If the student is accused of violating a federal, state or local law on campus, charges may be instituted against the student through the established College judicial system and/or through the civil and criminal courts.

Section 3. If the student is accused of violating a campus regulation, charges will be instituted through the established College judicial system.

Section 4. No student shall be punished for an action, if such an action was committed before the College instituted regulations which prohibited said action.

Section 5. Absent extraordinary circumstances, the status of a student shall not be altered, nor shall the student's right to be present on campus to attend classes and to participate in college activities be suspended until disposition of charges are made, except when the student's continued presence on campus poses imminent danger to the safety of that student or to the safety of other members of the college community or to college property. Any such exceptions shall be in accordance with the established college judicial procedures which shall provide for an appeal.

Section 6. If abuse of computing resources occurs on the networks to which the college belongs or the computers at other sites connected to these networks, the College will treat this matter as an abuse of Rhode Island College's policy for responsible computing. The aforementioned does not preclude prosecution under Federal and State statutes.

Section 7. Illegal off-campus activity will not normally be noticed by the College, but when such conduct imperils the integrity and values of the academic community, it may also result in disciplinary action by the college.

Article VIII: Privacy

Section 1. Students have the same rights of privacy as any other citizen and surrender none of those rights by becoming members of the academic community. These rights of privacy extend to premises occupied by students and the personal possessions of students (such as, not limited to: residence hall rooms, lockers, and vehicles). Nothing expressed or implied in the institutional relationship or residence hall contract may give the institution or residence hall officials authority to consent to a search of a student's room by police or other law enforcement officials unless "probable cause" exists that the student is participating in an illegal activity or one which will endanger the student, the rest of the Student Body, or College property. When required by law, said officials must present a search warrant.

Section 2. The institution is neither arbiter nor enforcer of student morals. Social morality on campus, not in violation of law or institutional rules, is of no disciplinary concern to the institution.

Section 3. When the institution seeks access to a student's room in a residence hall to determine compliance with provisions of applicable multiple dwelling unit laws, College regulations, or for improvement or repairs, the occupant normally shall be notified in writing of such action not less than twenty-four (24) hours in advance except as specified in Section 5.

Section 4. If a College employee or student has reason to believe that a search of a particular room or personal possessions of another student will yield evidence of violation of a College regulation by a particular student, that employee or student should contact the Hall Director or the Director of Residential Life and Housing. If the Hall Director or the Director of Residential Life and Housing, after hearing the employee's or student's statements, believes that a search of a particular student residence may produce evidence of a violation of College regulations, or evidence of the identity of a person committing such a violation, the Hall Director or the Director of Residential Life and Housing may apply to the Vice President for Student Success ( or designee) for an administrative search warrant. The Vice President for Student Success (or designee) shall sign the administrative search warrant only if there is reasonable suspicion to believe that the item(s) described in the application and related to the commission of a violation of a violation is located as described in the application and that it is best interest of the College and its students to conduct an administrative search. Evidence found in the administrative search that indicates a violation of College policy may be used for internal College action.

Section 5. The Hall Director, the Director of Residential Life and Housing, the Vice President for Student Success, or anyone specifically designated by the Housing Office may enter a student's room in a residence hall without consent when that person has a reasonable cause to believe that such entry is necessary on an emergency basis to protect the health or safety of persons or to make emergency repairs to College facilities to avoid damage to College or student property.

#### Article IX: Freedom from Improper Disclosure

Section 1. Information such as but not limited to student views, religious beliefs, sexual orientation, and political associations that employees of the Counseling Center acquire in the course of their work is strictly confidential. Although instructors are not legally bound by the same health care confidentiality rules as employees of the Counseling Center, they are expected to honor student confidences absent extraordinary circumstances. Judgments of ability and character may be provided under appropriate circumstances, with the knowledge or consent of the student.

Section 2. To minimize the risk of improper disclosure, academic and disciplinary records shall be separate, and the conditions of access to each shall be set forth in an explicit policy statement. Transcripts of academic records shall contain only information about

academic performance and current status of enrollment. Information from educational records for all students, and disciplinary files for students until their 18<sup>th</sup> birthday, shall not be available to unauthorized persons without the express written consent of the student involved except under legal compulsion or in cases of a health or safety emergency. Administrative staff and faculty members should respect confidential information about students that they acquire in the course of their work.

#### Article X: Freedom in the Classroom

Section 1. The instructor in the classroom and in conference should encourage free discussion, inquiry, and expression. Student performance should be evaluated solely on an academic basis, not on opinions or conduct in matters unrelated to academic standards. Students are protected through orderly procedures against prejudiced or capricious academic evaluation.

Section 2. Students are free to express differences of opinion or to disagree with data or views offered in any course of study. However, they are responsible for maintaining standards of academic performance established for each course in which they are enrolled.

#### Article XI: Protest

Section 1. The right to protest peacefully within the College community is granted. However, the College retains the right to ensure the safety of individuals, the protection of property, and the continuity of the educational process. Peaceful protest does not include obstruction of entrances to and exits from institutional facilities, willful disruption of campus activities, creation of conditions threatening to persons or property, or abusive conduct.

#### Article XII: Amendments

Section 1. Amendments to this document shall become effective upon approval by Rhode Island College Student Community Government, Inc., the Committee on Student Life, the Council of Rhode Island College, and the President of the College.

#### Article XIII: Ratification

Section 1. This document shall be adopted upon approval by Rhode Island College Student Community Government, Inc., the Committee on Student Life, the Council of Rhode Island College, and the President of the College.



19.) At the discretion of the hearing officer either side may make a closing argument with the accused student/student organization going last.

20.) The hearing body's determination shall be made on the basis of a preponderance of the evidence (e.g. whether it is more likely than not that the accused student/student organization violated the Code) except where the likely sanction is either suspension for at least a semester or expulsion in which case the standard of proof, other than cases involving allegations of sexual misconduct, shall be by clear and convincing evidence.

21.) Notice of the hearing body's decision, including information regarding any relevant right of appeal, shall be sent to the accused student/student organization as soon as practicable.

#### e. Sanctions

An individual found responsible for violating the Student Conduct Code is subject to one or more of the following sanctions.

- A. Written Warning that shall become part of the student's record until the student graduates from the College.

- B. Fines are monetary sanction assigned by the college officer making the Administrative Determination or conducting the Formal Adjudication.
- C. Restitution either to the Complainant or the College. Completion of a work assignment(s) may, in some circumstances, be substituted for a monetary payment.
- D. Restriction either from specific locations on campus such as the residence halls, and/or during specific times. The restriction may be for a fixed period of time or permanent.
- E. Educational Sanction used to provide additional education related to the behavior or incident by the hearing officer. Students assigned an educational sanction will be given a detailed description of the assignment by the hearing officer. Examples of educational sanctions include, but are not limited to: self-assessment surveys, written assignments and presentations
- F. Probation with or without conditions such as exclusion from participation in extracurricular activities, the requirement to make restitution, or to complete some specific assignment.

Satisfying the conditions of probation is a prerequisite to receiving a degree or certificate and failure to honor the terms of the probation shall result in the reconsideration of the original sanction by the relevant adjudication board.

G. Residence Probation is a specified period of time where any further unacceptable behavior may be cause for removal from residential living community.

H. Residence Relocation is the requirement of a residential student to move from one residential living community to another residential living community due to unacceptable and inappropriate behavior. The student will be re-assigned by the relevant residential living community staff.

I. Residential Removal is the immediate termination of a residential student's on-campus housing after one serious violation or repeated violations of community standards in a residential living community.

J. Revocation of Admission

#### K. Revocation of Degree

L. Suspension is forced withdrawal from the College for a specified period of time, including exclusion from classes, termination of student status and all related privileges and activities, and exclusion from the campus if set forth in the notice of suspension. If a student while suspended, violates any of the terms set forth in the notice of suspension, the student shall be subject to further discipline in the form of expulsion.

M. Suspension held in abeyance is an action to seriously warn a student or student organization that suspension is being withheld pending no additional evidence being discovered regarding the incident. If additional violations of college policy occur, the student may be immediately suspended from the College pending an investigation of the new incident.

N. Treatment Compliance where the student will be required to comply with any treatment, referrals and educational activities which may be recommended and to provide documentation of official discharge from treatment provider upon completion.

O. Trespass A suspension of a student's right to enter a specific building on University property,

locations on campus, or all of the University of Rhode Island campuses. When appropriate, a trespass may include the suspension of a student's right to represent 35 the University at University-sponsored or related events. When a trespass notice is given, the student will receive a detailed explanation of the parameters of this trespass. In the event there is a report that the student has violated the trespass, it will be recommended to the Vice President for Student Affairs that the student be Emergency Suspended, as defined in the Student Handbook.

P. Expulsion is a permanent separation from the College.

A student organization found responsible for violating the Student Conduct Code is subject to one or more of the following sanctions:

- a ) Written Warning
- b ) Restitution
- c ) Monetary Fines

webserver.rilin.state.ri.us/Statutes/TITLE 16/16-81/16-81-1.HTM

Title 16

Education

Chapter 81

Right to a Safe School in Higher Education

R.I. Gen. Laws 16-81-1

16-81-1. Right to a safe school.

(a) Each student, staff member, teacher, and administrator has a right to attend and/ or work in an institution of higher education which is safe and secure and which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student. A disruptive student is a person who exhibits persistent conduct, which impedes the ability of other students to learn or otherwise substantially interferes with the rights above, and who has failed to respond to corrective and rehabilitative measures presented by staff, teachers, or administrators.

(b) The governing body as designated by each institution of higher education may suspend or expel all students found guilty of this conduct or where a student represents a threat to those rights of students, teachers, or administrators, as described in subsection

(a) Nothing in this section shall relieve the institution of higher education from following all procedures required by state and federal law regarding discipline of students with disabilities.

(c) Any decision of the designated governing body shall be subject to appeal by the student as provided by the rules and regulations of each institution of higher education. These procedures shall assure due process which shall include at minimum time-lines for a prompt hearing; adequate notice to the student stating the rule allegedly violated and giving a specific description of the incident and evidence that will be used against the student; an opportunity prior to the hearings to review any evidence supporting the allegation; an impartial decision maker or team of decision makers; a right to confront and cross examine witnesses; the opportunity to be represented by counsel; and a written decision setting forth clearly the grounds for the action of the school.

History of Section.

P.L. 1998, ch. 30, subsection 1 ; P.L. 1998, ch. 51, subsection 1.

Case Number: PC-2019-09870

Filed in Providence/Bristol County Superior Court

Submitted: 12/31/2019 12:09 PM

Envelope: 2401600

Reviewer: Dennis R.

STATE OF RHODE ISLAND

PROVIDENCE, S.c.

RAHIM CALDWELL,

Plaintiff,

V.

JASON ANTHONY and Frederick Ghio

GHIO,

Defendants.

MEMORANDUM IN SUPPORT OF MOTION TO  
DISMISS AMENDED COMPLAINT

AND FOR AWARD OF ATTORNEY FEE



## 1. INTRODUCTION

This suit is brought by Rahim Caldwell against Jason Anthony and Frederick Ghio. Jason

Anthony is Director of Admissions at Rhode Island College ("RIC" or "the College").

Amended complaint, p.3 Frederick Ghio was formerly the Director of Campus Security/ Chief of Police.

Amended Complaint, p.14.

Generally, the suit arises from a pair of actions ( Actions ( Amended Complaint, p. 2 ) affecting Plaintiff and his relationship with RIC. First, Mr. Anthony issued a letter to Plaintiff advising him that his admission to Rhode Island College was revoked. Second, Mr. Ghio issued a Trespass Warning and Notification to Plaintiff notifying him that he was barred from being present on RIC property and warning him that post-notification presence could result in arrest for trespassing with attendant fines or other penal consequences.

The Amended Complaint was filed following the granting of Defendants' Motion for more Definite Statement. The Amended complaint, twenty-eight pages in length with 11 attached exhibits, is hardly a "short and plain statement of the claim showing that the pleader is entitled to relief" (Rule 8, R.I.R. Civ.

Proc. ) The Amended Complaint contains numerous  
excerpts of

RHODE ISLAND COLLEGE

OFFICE OF UNDERGRADUATE ADMISSIONS

Rahim Caldwell

Throp Hall, Rhode Island College

Dear Mr. Caldwell

It has recently come to our attention that your application for admission to Rhode Island College contained inaccurate information. The 2017-2018 College Catalog provides as follows:

Applicants to Rhode Island College are expected to adhere to standards of academic honesty in completing the application process. By signing the application, the applicant attests that the information provided is complete and accurate to the best of the applicant's knowledge. The admissions office may withdraw an application or rescind the acceptance offer if a violation of academic honesty is discovered.

On your Common Application, under Disciplinary Information, you answered "no" to the following questions: "Have you ever been adjudicated guilty or convicted of a misdemeanor or felony?"

The College has received information that answer to that question, in your case is "yes". Accordingly, the College hereby rescinds your acceptance at this time. While the revocation of your acceptance is effective immediately, if you have evidence that the Answer you provided to the question set forth above was, in fact, "No," as stated, please bring it to my attention.

You will receive credit for the work that you undertook this semester and your transcript will be available pursuant to regular College policies. This rescinded admission is not disciplinary in nature and will not appear as discipline on your transcript.

To the extent that you have incomplete work this semester, please contact your professors who will make a judgment as to whether they will accept additional work towards this semester's grades.

The revocation of your admission disqualifies you from further studies at Rhode Island College unless and until you reapply for admission for admission and are accepted. Therefore, your registration for any summer course will be cancelled.

We wish you success in your future studies.

/S Jason Anthony

Jason Anthony

Director of Undergraduate Admissions.

Rhode Island College

600 MT. PLEASANT AVENUE PROVIDENCE, RI  
02908-1996 (401) 456-8234 TTY/TDD:711

RHODE ISLAND COLLEGE

OFFICE OF UNDERGRADUATE ADMISSIONS

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The revocation of your admission disqualifies you from further studies at Rhode Island College unless and until you reapply for admission and are accepted. Therefore, your registration for any summer courses will be cancelled.

/S/ Jason Anthony

Jason Anthony

Director of Admissions

Rhode Island College'

Addendum: Letter hand delivered on Wednesday, May 2 did not include the date, so correction was made to reflect this change.

600 MT. PLEASANT AVENUE PROVIDENCE, RI  
02908-1996 (401) 456-8234 TTY/TDD:711



Proposal to the Council of Rhode Island College  
From the Committee of Academic Policies and  
Procedures  
Via the Academic Integrity Board  
Regarding Section 3.9.1 of the College  
Handbook

The Academic Integrity Board that several changes  
made to Section 3.9.1 of the College Handbook.  
Deletions are indicated are indicated by  
~~striketroughs~~ and additions are indicated by  
underlines.

Rationale:

These changes are intended to clarify the role of the  
Academic Integrity Board which was created when the  
Board of College Discipline was restructured in 2011,  
and to make the wording consistent with a similar  
section of the Student Handbook. These changes also  
attempt to make the language in Section 3.9.1 more  
consistent by replacing the term “academic honesty”  
and “intellectual honesty” with “academic integrity”,  
and “academic dishonesty” with “violations of  
academic integrity”.

Proposed changes to Section 3.9.1:

3.9.1 Academic ~~Dishonesty~~ Integrity

(As amended by the Council of Rhode Island College –  
11/07/08 and 4/13/12)

A. Introduction

Academic integrity is the foundation of the academic community. Students who violate College rules on academic ~~dishonesty~~ integrity are subject to disciplinary penalties, including the possibility of failure or removal from a course, disciplinary probation, and/or dismissal from the College. Individual schools may have additional standards and policies related to academic honesty.

B. Applicability

The rules for academic integrity, and the penalties for violations, apply to all undergraduate and graduate, full-time and part-time students at Rhode Island, persons who withdraw from the College after allegedly violating these standards who are not officially enrolled for a particular term but who have a continuing relationship with the College or who have been notified of their acceptance for admission are considered “students.” In such cases a student may be prevented from re-enrolling or may be readmitted with certain restrictions until the case is resolved.

### C. Prohibited Behavior

#### Examples of ~~Academic Dishonesty~~ Violations

Academic Integrity Include (but are not limited to):

- Cheating: intentionally using or attempting to use unauthorized materials.

Information or study aids in any academic exercise.

- Fabrication: intentional and unauthorized falsification or invention of any information or citation in an academic exercise.
- Plagiarism: intentionally or knowingly representing the words or ideas of another as one's own in any academic exercise. The following are examples of plagiarism:
- Word-for-word plagiarism: This includes (a) the submission of another student's work as one's own; (b) the submission of work from any source whatever [print or electronic] without proper acknowledgement by footnote or reference within the text of the paper; © the submission of any part of another's work without proper use of quotation marks.

ii. Patchwork plagiarism: This consists of a piecing together of unacknowledged phrases and sentences quoted verbatim [or nearly verbatim] from a variety of sources. The mere reshuffling of other people's words does not constitute original work.

iii. Unacknowledged paraphrase: It is perfectly legitimate to set forth another author's facts or ideas in one's own words, but if one is genuinely indebted to the other author for these facts or ideas, the debt must be acknowledged by footnote or reference within the text of the paper [e.g., the above paragraphs are based largely on Sears, Harbrace Guide to the Library and Research Paper, p.39).

Many facts, ideas, and expressions are considered to be in the public domain or general knowledge and need not be acknowledged (e.g., the fact that the Declaration of Independence was signed in 1776; the idea that universal public education is essential to the survival of democratic institutions; such proverbial expressions as "A rolling stone gathers no moss," or "New York is a great place to visit, but I wouldn't want to live there,") but as a general rule, when one is in doubt, it is best to acknowledge the source.

- Collusion: facilitating academic dishonesty intentionally or knowingly helping or attempting to help another to commit an act of academic dishonesty.

- Deception: Providing false information to an instructor concerning a formal academic exercise, e.g. giving a false excuse for missing a deadline or falsely claiming to have submitted work.
- Multiple submissions: Submitting for credit, when a student has not been given permission to do so, any work that is the same or substantially the same as work that has been submitted for credit in another course. Many professors allow re-working or building on prior work; however, multiple submissions are permitted only with the prior permission of the instructor(s), and only when the student acknowledges the multiple submissions in the work itself.

#### D. Adjudicating Alleged Violations of Academic Integrity

Formal adjudication of alleged violations of academic integrity is conducted by the Academic Integrity Board.

##### (a) Initiation of Complaint

Cases of violations of academic integrity should be identified by individual faculty members, and reported to the V.P.A.A. A student may also report to a case to a faculty member or the V.P.A.A.

(b) Faculty Role

The faculty member has two clearly defined roles: first to establish preventive measures; and, second, to ensure that detected ~~instances~~ violations of academic ~~dishonesty~~ integrity are dealt with appropriately and reported.

Preventive measures should include a statement to each class by faculty member outlining expected standards of ~~intellectual honesty~~ academic integrity and the necessity for such standards.

The faculty member should also maintain reasonable security of all examination materials and procedures. Generally, the faculty member should employ any reasonable methods to discourage ~~aets~~ violations of academic ~~dishonesty~~ integrity. Some often-used penalties include:

- A low or failing grade on the assignment in which the offense occurred.
- An additional assignment
- Reduction of the final grade up to and including failure.

Iv. Any combination of the above.

In all cases, report describing the nature of the ~~dishonesty~~ violation and the subsequent action taken by the faculty member shall be filed with the Vice President for Academic Integrity Affairs. Additionally, the faculty member may recommend that the Academic Integrity Board recommend further action.

In the case of graduate students, the faculty member will also inform the director of the graduate program of the nature of the ~~dishonesty~~ violation and the subsequent action taken by the faculty, and may recommend that the director of the graduate program take further action.

(c) Graduate program Role

In the case of graduate students, the director of the graduate program may convey the recommendation of a penalty of probation or dismissal from the program to the academic dean of the school in which the student is enrolled. (Revised by vote of the Council ( May 3, 2013, and approval of the President ( May 24, 2013)

(e) (d) Vice President for Academic Affairs Role

The Vice President for Academic Affairs shall maintain a file of any and all reports of violations of academic dishonesty integrity. At the discretion of the Vice President for Academic Affairs and depending upon the severity of the infraction, the student may be informed in writing about possible consequences of further infractions.

In the case of multiple infractions, the Vice President for Academic Affairs will refer the student's name to the Academic Integrity Board for review and possible action.

~~(d)~~ (e) Academic Integrity Board role

The Council of Rhode Island College created the Academic Integrity Board (AIB), composed of students, faculty and administration. The AIB has authority to establish, publish, and implement procedures for adjudicating alleged violations of academic integrity by students. It is authorized to hear and adjudicate charges against individual students in cases of violations of academic integrity. Details regarding the AIB can be found at <http://www.ric.edu/aib/>.

The Academic Integrity Board role shall consider cases referred to it by a faculty member or the Vice President for Academic Affairs, and has the option to recommend any ~~of the~~ penalties ranging from those



available to the faculty member to placing the student on academic probation or expelling the student from the College.

□ Appeal

Any student accused of a violation of academic ~~dishonesty~~ integrity may appeal action taken by the instructor in a case to the Academic Integrity Board.

## 2. Appeals Procedure

- Appeals or referrals to the Board will follow the standard procedure of the Board.
- The Board shall inform the student, the faculty member, and Vice President for Academic for Academic Affairs of its decision.
- A record of the cases concerning violations of academic ~~dishonesty~~ integrity will be kept in the Office of the Vice President for Academic Affairs.
- A student may appeal the decision of the Academic Integrity Board to the Vice President of Academic Affairs. Appeals may be considered on the basis of new information or procedural error.

### (f) Hearing Procedures

Absent extraordinary circumstances, the Academic Integrity Board (aib) shall operate in accordance with the following:

- The student accused will be given written notice of academic integrity violation.
- The Chair of the board shall schedule the time, date, and place of the hearing(s), to be held normally at least five days following the student's notification but normally within 30 days. The Chair shall rule on any other procedural matters raised by either party.
- Any documentary evidence that any witness or party wishes to present at the hearing shall normally be submitted to the Vice President for Academic Affairs ( VPAA shall forward all evidence to the AIB Chair. The Chair will share all evidence with the Board prior to the hearing. The accused may view the evidence prior to the hearing by contacting the Chair and arranging to have the materials viewed. Any documentary evidence not submitted in advance of the hearing shall be permitted at the discretion of the Chair.
- An accused student or a complaining witness may request that one or more members of the Board for good cause such as a conflict of interest or bias. The fact that one of more members of the Board may have previously adjudicated a matter involving the student or

witness (s) shall not, in and of itself constitute good cause. The Chair shall rule on the request for recusal except When the Chair is subject of the recusal request in which case the remaining members shall make the ruling.

- Board Hearings shall be conducted in private.
- The accused student, the party bringing the charges forward, and a person of support for the accused student and the party bringing the charges forward may attend the hearing. A person of support for the accused student and a person of support for the party brining the charges forward may attend. However, the support person must be a member of the RIC community and may not be a member of the accused family. The support person may only speak to the Board with the chair's approval. Attendance of any other witnesses shall be at the discretion of the Chair.
- The Board's of deliberations concerning the determination of guilt and the imposition of sanctions shall be conducted in executive.
- Where more than one student is accused of misconduct arising out of the same incident the accusations against all of the students shall be

considered separately. The Chair shall rule on any exceptions.

- All members of the College community are expected to cooperate with the Academic Integrity Board and those who are prospective witnesses shall make themselves available at the hearing as necessary. The parties seeking to call witnesses from the College community shall contact the witnesses as far in advance of the hearing as possible.
- Hearsay evidence may be admitted at the discretion of the Chair.
- The hearings shall be conducted without the formal procedures that are obtained in a court of law.
- A recording shall be made of the hearing and a copy shall be provided to the accused student upon request.
- Following the representation of the case by the party bringing the charges forward and / or the

Board, the accused student shall have the opportunity to respond.

- Questions directed at the accused and the Complainant (if present) will be asked by the board.
- Normally, the party bringing the charges forward and accused student may not directly question each other.
- At the discretion of the Chair either side may make a closing argument with the accused student going last.
- The Board's determination shall be made on the basis of whether it is more likely than not that the accused student violated the Academic Integrity Code except where the likely sanction is either suspension for at least a semester or expulsion in which case the standard of proof shall be by clear and convincing evidence.
- The Board shall make its decision(s) on the evidence presented and arguments made at the hearing, in addition to evidence and findings related to previous hearings of the accused and

college documents. If the accused student fails to appear, the Board shall proceed with the hearing and consider whatever evidence is presented.

- Corrective actions may include but are not limited to: expulsion, suspension, academic probation, failure of a course, failure of assignment(s), and / or a prescription of work by an assigned Academic Integrity Advisor. The Board may also prevent a student from graduating or being readmitted.
- Notice of the Board's decision, including information regarding any relevant right of appeal, shall be sent to the student, the faculty member, and the Vice President for Academic Affairs as soon as practicable.

RHODE ISLAND COLLEGE

Dear Mr. Caldwell:

Pursuant to the provisions of the Student Conduct Code, please take notice that the College has received complaints about your behavior that may constitute violations of the Student Conduct Code. The College is engaging in the fact gathering process as part of its Administrative Determination of whether disciplinary proceedings will be instituted. The process is set forth in the Student Handbook.

Please be advised that retaliation against any individual for making a complaint of violation of the Student Conduct Code is a violation of the Code.

As an interim measure, you are hereby advised that you are to have no contact with any individual that you learn has filed a formal or informal complaint against you or who you believe has filed a formal or informal complaint against you. This no contact order is not an indication of responsibility for a violation of college policy. Rather it is intended to prevent any interactions that could be perceived as retaliation, harassment or intimidation. This will not be part of your college record but you must abide by this order

because failure to do so could result in disciplinary action.

We will be in further contact with you concerning the allegations of misconduct in order that you may participate in the fact gathering process that will form the basis for the Administrative Determination as to whether a formal disciplinary charge is made, whether an informal resolution of complaint is possible or whether there is no basis to believe that a violation has occurred.

Please direct questions regarding this notice to Campus Police as well as any information that you wish to bring to the College's attention as part of the Administrative Determination process.

We also wish to assure you that, separate and apart from any disciplinary issues or potential issues, the College has numerous resources available to address any areas of conflict or concern that you may have.

Thank you.

/S/Frederick W. Ghio

Frederick W. Ghio, Chief-Campus Police

Providence, RI 02908-1991

(401) 456-8201

TTY/TDD via RI Relay 1-800-745-5555



RHODE ISLAND COLLEGE

600 Mt Pleasant Ave

Providence, RI 02908

TRESPASS NOTIFICATION AND WARNING

TO: RAHIM CALDWELL

ADDRESS: 600 MT PLEASANT AVE THORP HALL

CITY: PROVIDENCE STATE: RI

DATE: MAY 4, 2018

I, CHIEF FREDERICK W. GHIO ~~owner/manager~~  
campus police ~~officer~~ for Rhode Island College, hereby  
make notice to the person so named above that they  
are prohibited from being on the grounds, buildings or  
facilities of the college, and specifically

\_\_\_\_\_ as of the  
date first shown and until further notice. You are  
further advised that if you are seen in or around the  
premises of Rhode Island College after date indicated,  
you will be considered as a trespasser, in violation of  
Section Subsection 11-44-26 or Section subsection 11-  
44-26.1 of the Rhode Island General laws, and will be  
arrested immediately, punishable by a fine not  
exceeding one thousand dollars (\$1,000), or  
imprisonment for a term not exceeding one year, or  
both.

This notice shall remain in effect from the date first shown until such time as it has been cancelled. A copy of this notice shall remain on file with the Rhode Island College Police Department.

SIGNATURE OF ISSUING OFFICER: Frederick W. Ghio, Chief, RIC PD

INCIDENT/ARREST REPORT #: 18-156-OF

ACKNOWLEDGEMENT OF RECEIPT

I,

\_\_\_\_\_, hereby acknowledge receipt of the above notification and warning of trespass as it pertains to my presence on or about the premises of Rhode Island College.

SIGNATURE:

DATE:

## TITLE 11

### Criminal Offenses Chapter 44 Trespass and Vandalism

#### R.I. Gen. Laws subsection 11-44-26.1

Subsection 11-44-26.1 Mandatory minimum fine for  
will trespass within school buildings.

Every person who willfully trespasses or, having no legitimate purpose for his or her presence, or having been suspended at any school, remains within in building used for a public or private school, college, university, junior college, or other public or private educational institution, or on the school grounds or campus grounds of any public or private school, college, university, junior college or other public or private educational institution after having been forbidden so to do by a local or state police officer or a guard, security officer, or an official of the school, college, university, junior college or educational institution, shall for the first offense be punished at least by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500), and shall for the second offense be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and for the third or or any subsequent offense by a fine of not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500), and may in addition, be imprisoned not exceeding six (6) months.

History of Section.

P.L. 1983, ch. 52 subsection 2 P.L. 1986, ch. 183,  
subsection 1; P.L. 1986, ch. 197, subsection 1.

In re Estate of Griggs, 63 A.3d 867 (2013)

Briefing or argument. For the reasons set forth in this opinion,

we affirm the judgments of the Superior Court.

\*868 I

#### Facts and Procedural History

These cases have followed a long and tortious path, beginning in 2000 with an unsuccessful bid by Lauren Griggs, 1 then winding through an (ultimately successful) emergency petition for guardianship, filed by Glenn Grigg's son, Dan Griggs. See *In re Estate of Griggs*, 2006 WL 3720309, at \*1-2 (R.I. Super.Ct Dec. 12, 2006). Along the way, in what appears to be an effort to exert control over Glenn Griggs, appellants removed him from his house and refused to disclose his location. On June 26, 2003, the Warwick Probate Court awarded temporary limited co-guardianship to Glenn Griggs's business partner, David Heal, and to Dan Griggs. The appellants, however, refused to disclose Glenn Grigg's whereabouts and moved,

unsuccessfully, to vacate the decision of the probate court. It was not until July 3, 2003, after the Probate Court judge ordered appellants to retrieve Mr. Griggs and bring him before the court that appellants finally complied with the court's order.

1 For further details, see *Griggs v. Estate of Griggs*, 845 A.2d 1006, 1007 (R.I. 2004).

In 2005, the Probate Court adjudged appellants to be in contempt of its June 26, 2003 order. 2 That same year, the Probate Court appointed David Heal (guardian or appellee) as permanent guardian for Mr. Griggs. 3 For the next five years, the litigation dragged on, surviving Mr. Griggs, who "died out of it" 4 in 2007. The appellants initiated successive (and unsuccessful) challenges and appeals in both the Probate Court and the Superior Court. Ultimately, on December 13, 2010, the Probate Court entered a decision and order assessing "compensatory damage contempt sanctions" against appellants totaling approximately \$447,000 in the aggregate. Thereafter, each appellant filed a claim of appeal in the Warwick Probate Court. 5

2 The plaintiff Christine Peabody was also adjudged to be in contempt. She is not a party to these appeals. 3 Mr. Heal is the appellee in the appeals. 4 Charles Dickens, *Bleak House* 4 ( Alfred A. Knopf, Inc. 1991) (1853). 5 Patricia's claim of appeal was filed on

December 30, 2010, Lauren's was filed on January 3, 2011, and Nancy's was filed on January 4, 2011. The guardian argues that Nancy's claim was filed beyond the twenty day jurisdictional requirement of G.L. 1956 subsection 33-23-1(a)(1) and that, therefore, her appeal was never properly before the Superior Court. Nancy responds that, notwithstanding the fact that the Warwick Probate Court was open for business on January 3, that date was a statutorily recognized state government holiday. In light of our opinion affirming the dismissal of all three appeals, we need not resolve this particular issue.

In January 2011, each of the appellants filed a certified copy of her claim and the reasons of appeal in the Superior Court, together with a certified copy of the December 13, 2010 decision and order. No other portion of the record was submitted, and appellants moved for an extension of time to file the record. The guardian objected to any extension and requested that the appeals be dismissed. A hearing was held in Superior Court on January 24, 2011, at which time the trial justice denied the motion to extend and dismissed the appeals for failure to timely provide the Probate Court record. The appellants each filed a notice of appeal to this Court on February 21, 2011. On April 27, 2011, appellee moved in Superior Court for execution on the Probate Court order awarding sanctions. The appellants objected the motion, and on May 9, 2011 the Superior \*869 Court granted the motion and issued the execution.

## II

### Standard of Review

[1] [2] This Court employs “a de novo standard ‘[w]hen reviewing an appeal based on an alleged error of law.’ “

Flag symbol Warwick Sewer Authority v. Carlone, 45 A.3d 493, 498 (R.I. 2012) (quoting N & M Properties, LLC v. Town of West Warwick, 964 A.2d 1141 (R.I. 2009)). “Our review is de novo because this Court is in best position to decide the merits of a given question of law.” Id. (quoting N & M Properties, LLC, 964 A.2d at 1144).

## III

### Discussion

On appeal, appellants argue that the trial justice erred in finding that they had not complied with the requirements of subsection 33-23-1 (setting forth timing requirements for probate appeals) and that, under subsection 33-23-1 ©, he should have granted the extension in order to reach the merits of their



cases. Further, appellants contend that contempt finding and sanctions must be vacated because the probate court lacked subject-matter jurisdiction and because the order that they purportedly violated lacked specificity. The appellee counters that the trial justice was correct in dismissing the appeal because this Court's precedent requires that a sufficient record be submitted before the Superior Court may allow additions to the record. The appellee further asserts that the Probate Court had inherent authority to impose sanctions and that the death of Glenn Griggs did not deprive the court of this authority. In addition, appellee moved to dismiss the instant appeals, arguing that appellants had failed to perfect their appeals because they did not submit an official transcript of the January 24, 2011 Superior Court hearing to this Court.

#### A

#### The Motion to Dismiss the Supreme Court Appeal

We first address the threshold issue of appellee's motion to dismiss these appeals for failure to provide a transcript. Article I, Rule 10(b)(1) of the Supreme Court Rules of Appellate Procedure requires that "[w]ithin twenty (20) days after filing the notice of appeal the appellant shall order from the reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary for inclusion

in the record.” Here, appellants indicated in their notices of appeal that they would order a transcript, but they never did so.

This Court has previously stated:

“The deliberate decision to prosecute an appeal without providing the Court with a transcript of the proceedings in the trial court is risky business. Unless the appeal is limited to a challenge to rulings of law that appear sufficiently on the record and the party accepts the finding of the trial justice as correct, the appeal must fail.” *Adams v. Christie’s. Inc.*, 880 A.2d 774, 778 (R.I. 2005) (quoting *flag symbol 731 Airport Associates, LP v. H & M Realty Associates, LLC*, 799 A.2d 279, 282 (R.I. 2002)).

Moreover, Article I, Rule 11(a) of the Supreme Court Rules of Appellate Procedure requires an appellant to “take any other action necessary to enable the clerk to assemble and transmit the record.” Rule 11 (b) devolves to the clerk of the trial court the obligation to transmit the record “[w]hen the record is complete for purposes of the appeal.” Thus, it is the responsibility of an appellant who fails to order a transcript after indicating that he \*870 or she would do so, to inform the Court that he or she will not order a transcript, so that the clerk may “assemble and transmit the record.” See *flag symbol Sentas v. Sentas*, 911 A.2d 266, 270

(R.I. 2006) (quoting Rule 11 (a); Procopio v. PRM Concrete Corp., 711 A.2d 650, 651 (R.I. 1998) (mem.).

While it is regrettable that appellants did not inform the court that they had decided not to order a transcript, that failure does not prevent us from reaching the merits in this particular case. We are satisfied that these appeals concern a question of law that appears sufficiently on the Superior Court record. We therefore deny the appellee's motion to dismiss this appeal.

## B

### The Dismissal of the Superior Court Appeal

[3] Section 33-23-1 (a) 2 requires that, within thirty days of the entry of the order appealed from "the appellant shall file in the superior court a certified copy of the claim and record and the reasons of appeal specified stated \* \* \*." Here, no portion of the record other than the December 13, 2010 decision and order was provided to the Superior Court. Instead, appellants, citing subsection 33-23-1 ©, filed a motion to extend time to file the probate record. Section 33-23-1( c) states:

"If the appellant ordered the transcript or tape recording as the case may be from the probate clerk within the twenty (20) day deadline of subsection (a)(1) and the transcript is unavailable for filing within the thirty (30) day deadline of subsection (a)(2), the superior court on appellant's motion shall grant an

extension of such additional time reasonably necessary to complete the record.”

The trial justice found that subsection 33-23-1(c), by its plain language, applies to transcripts of proceedings. In argument before the trial justice, appellants sought to extend the term “transcript” to apply the entire record of the case. However, the definition of “transcript” simply does not stretch so far.

In *Griggs v. Estate of Griggs*, 845 A.2d 1006, 1010 (R.I. 2004) (Griggs 1), we stated: “A Superior Court justice’s authority to permit additions or corrections to the record is contingent on the appealing party’s filing a substantial record at the outset.

The transmitted record is sufficient if it will allow the Superior Court to pass on each issue raised in the appeal.”

Here, appellants did not merely fail to produce to produce a transcript of the probate Court proceedings; they failed to produce anything beyond that court’s decision and their own reasons for appeal. The appellants claimed that, because appellee would not stipulate to a record, they would have had to submit the entire record of these cases, amounting to thousands of pages and boxes of documents---far more than the Warwick Probate Court clerk’s office could hope to produce before the deadline. The trial justice noted that “[t]he deadline[s] of subsections (a)(1) and (a)(2) \* \* \* are jurisdictional and may not be extended

by either the probate court or the superior court, except for purposes of extending the time to file the transcript under subsection (c ).”

While parties are always presumed to be on notice of the law, rarely do we see a case where clear precedent can be found within the parties’ own case history. In Griggs 1, 845 A.2d at 1010. We held that “[a]lthough it is within a [s]uperior [c]ourt justice’s descretion to enlarge the record, we conclude that \* \* \* the \* \* \* justice erred in allowing the additions by failing to determine, as a preliminary matter, whether \*871 petitioners had filed enough of the record from Probate Court to perfect the appeal.”

Each appellant filed her claim and reasons for the appeal in the Superior Court, yet failed to file any part of the record and instead moved for an extension of time to file the record. In Griggs 1, 845 A.2d at 1010, we foresaw just such a situation and addressed it, saying “[s]ection 33-23-1(b) should not be interpreted as a loophole allowing inattentive parties to perfect the appeal by initially supplying the court with a smattering of documents, then supplementing the record later in the proceedings.” We went on to state that “[o]nly after a substantial portion of the relevant documents have been filed will the appeal be perfected, and a motion justice then can consider whether any additions or corrections are needed.” Griggs 1, 845 A.2d at 1010. Here, appellants failed to

file a substantial portion of the record. The trial justice then correctly held that subsection 33-23-1(c) applied only to transcripts and that did not have the authority to extend the deadline to file the record.

We discern no error in the trial justice's dismissal of the appellant's appeals. Although we harbor considerable concerns about the authority of the Probate Court to continue to preside over a guardianship proceeding for a long-dead ward, as well as the magnitude of the sanctions imposed without the benefit of a jury trial, we are unable to conduct any meaningful review due to lack of a record before us.<sup>6</sup> Nor can we address whether the Superior Court properly issued the execution while this matter was on appeal, as that issue is not properly before us.

6 We note, however, that the Probate Court judge said in his decision assessing the amount of sanctions that appellants were given the opportunity to review and challenge the evidence provided by the guardian relevant to attorneys' fees and costs, but that they failed to object to that evidence and waived their right to examine counsel for the guardian under oath.

#### IV

#### Conclusion

For the reasons stated herein, we affirm the judgments of the Superior Court. The record of this case shall be returned to the Superior Court.

All Citations

63 A.3d 867

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8    Decided January 19, 1988. \*8

Nicholas Trott Long, Kingston, R.I., with whom  
Barbara E. Grady, Providence, R.I., was on brief, for  
defendants, appellants.



Marc B. Gursky with whom Lovett, Scheffrin Gallogly, Providence, R.I., was on brief, for plaintiff, appellee.

Appeal from the United States District Court for the District of Rhode Island.

Before BREYER and TORRUELLA, Circuit Judges,  
and RE, Judge.

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For the American, in the words of Justice Frankfurter,  
: [a]udi alteram partem --- hear the other side! --- a  
demand made inconsistently through the centuries, is  
now a command, spoken with the voice of the Due  
Process Clause of the Fourteenth Amendment... “  
Caritativo v. California, 357 U.S. 549, 558, 78 S.Ct.  
1263, 1267, 2 L.Ed.2d 1531 (1958) ( Frankfurter, J.,  
dissenting).

The fourteenth amendment to the United States  
Constitution provides that no state shall deprive any  
person of life, liberty, or property without due process  
of law. There is no doubt that due process is required

when a decision of the state implicates an interest protected by the fourteenth amendment.

It is also not questioned that a student's interest in pursuing an education is included within the fourteenth amendment's protection of liberty and property. See *Goss v. Lopez*, 419 U.S. 565, 574-75, 95 S.Ct. 729, 736, 42 L.Ed.2d 725 (1975). Hence. A student facing expulsion or suspension from a public educational institution is entitled to the protections of due process. See *id.* At 575-76, 95 S.Ct. at 737; *Dixon v. Alabama State Bd. Of Educ.*, 294 F.2d 150, 157 (5<sup>th</sup> Cir.), cert. denied, 368 U.S. 930, 82 S.Ct. 368, 7 L.Ed. 2d 193 (1961).

To Say that an interest is protected by the due process clause of the Constitution however, is only the beginning of the inquiry. In the language of the Supreme Court, "[o]nce it is determined that due process applies, the question remains what process is due." *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct. 2593, 2600, 33 L.Ed.2d 484 (1972). Due process, which may be said to mean fair procedure, is not a fixed or rigid concept, but rather, is a flexible standard which varies depending upon the nature of the interest affected, and the circumstances of the deprivation. See *Mathews v. Eldridge*, 424 U.S. at 481, 92 S.Ct at 2600. The time-honored phrase "due process of law" expresses the essential requirement of fundamental fairness. Yet, it "does not impose an unattainable standard of accuracy." *Grannis v. Ordean*, 234

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Punishment even before his hearings. See Ex. A, 52. Plaintiff has failed to show that it is likely that his punishment was arbitrary, which is necessary for plaintiff to succeed on the merits.

2 Although plaintiff argues that the Blue Book Regulations for the South Carolina Corps of Cadets does not prohibit K2/Spice, this is irrelevant as that the facts demonstrate that the facts demonstrate that the administration had informed freshmen and plaintiff that k2/Spice was a prohibited substance and plaintiff is bound by the College Regulations, which proscribe the substance.

#### D. Failure to Follow Internal Procedures

Because federal constitutional standards, rather than school rules, define the requirements of procedural due process, not every deviation from a school's regulations is of constitutional significance. See *Winnick v. Manning*, 460 F.2d 545, 550 (2d Cir. 1972). Rather, a school's "violation of its own regulations is

unconstitutional only if those regulations are necessary to afford due process.” Id. Plaintiff claims that the Chair temporarily left the January 25 hearing when it became apparent that there was insufficient evidence as that the drug test results had yet to return on the drug paraphernalia. Even if the Citadel prohibits the Chair from temporarily leaving a disciplinary hearing, the Chair’s action in no way violates plaintiff’s constitutional due process. Plaintiff also initially asserted that the charges against him were “dismissed,” and they should not have been resumed on February 16, 2011, according to school rules. The charges, however, were not dropped; rather, the hearing was adjourned to await the results of the controlled substance test.

Plaintiff has failed to “clearly show” that he is likely to succeed on the merits, therefore, under Musgrave and Dewhurst, his motion must fail.

### III. CONCLUSION

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2011-09-1

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Mervado; and Lieutenant L. Moore, Defendants.

DAVID C. NORTON

101 \*101

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