

University Students Seek Refund of Tuition Fees and Other Costs

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In the midst of the COVID-19 pandemic and remote instruction, students have recently filed lawsuits against their universities alleging contract and unjust enrichment claims. The students seek refunds of certain tuition fees and other costs paid to their universities for the spring 2020 semester. The students claim that they paid tuition and fees for not just academic instruction, but for an in-person, hands-on curriculum that includes:

- face-to-face interaction with professors, mentors and peers;
- access to facilities such as computer labs, study rooms, laboratories and libraries;
- student governance and student unions;
- extra-curricular activities, groups and intramurals;
- student art, cultures and other activities; social development and independence;
- hands-on learning and experimentation; and
- networking and mentorship opportunities.

The students base their claims on alleged representations made by the universities that market an on campus experience as a benefit of enrollment and, in particular, the value of "experiential learning" and "living on campus [in] a world of interaction with other students, faculty, and staff members in many social, developmental and academic activities." They claim that they did not choose to attend other colleges/universities, and instead enrolled on an in-person basis at the university they are attending. They note that, as a result of the COVID-19 pandemic, their university has suspended all in-person on-campus activities and barred students from entering campus for the remainder of the spring 2020 semester. While the students acknowledge that the university is offering some level of academic instruction via "online classes," they claim that the level of academic instruction via these classes has deprived them of the benefits of on-campus learning and that the value of their degree will be diminished by this level of instruction. In addition to tuition payments, the students seek to be refunded for campus services that the university is no longer providing, including student activity fees, athletic fees, wellness center fees, student health and counseling center fees and student center fees. The students also seek refunds for optional fees that have been paid including room and board, parking fees, intramural and extra-curricular fees.

The students filed the actions individually, and on behalf of all others similarly situated, that is, all students enrolled at the institution for the 2020 academic year who paid fees and have not been refunded. The breach of contract claim is based on the admission agreement and payment of tuition and fees. The unjust enrichment claim is based on the benefit conferred to the university by the payment of the tuition and fees.

While students will have a difficult time prevailing on these claims in litigation, colleges and universities should continue to review their remote instruction platforms and continue to develop and enhance their remote learning procedures and techniques. In addition to remote and online instruction, professors and instructors should continue to provide opportunities to students for regular interaction with professors, advisors and mentors; access to academic support services, teaching assistants, tutors and resource centers; access to student health and counseling services; opportunities for student clubs and organizations to meet remotely; opportunities for

students to network and engage in social interactions remotely; and provide additional student activity opportunities. Professors and instructors should continue to be encouraged to maintain robust, rigorous remote classes that are comparable to in-person classes and consistent with the course syllabus and requirements. Additionally, professors should continue to be available to remotely meet with students individually as they would on campus and assist them in developing skills to adapt to the current circumstances and succeed in class. Students should recognize that the remote techniques they utilize during this unprecedented time will add a new dimension to their learning experiences and a new set of skills that will add to their development, their resume and their readiness for the new and evolving workplace.

Members of the Higher Education group at White and Williams are available to assist colleges and universities with issues related to COVID-19. If served with a lawsuit or claim related to COVID-19, colleges and universities should immediately consult with counsel and develop a litigation strategy and response that is consistent with their mission and operations.

If you have any questions, please contact Nancy Conrad (conradn@whiteandwilliams.com; 610.782.4909) or another member of the Higher Education Group.

As we continue to monitor the novel coronavirus (COVID-19), White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates [here](#).

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.