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Revocation of Academic Degrees by Colleges and Universities

Bernard D. Reams Jr.
St. Mary's University School of Law, breams@stmarytx.edu

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INTRODUCTION

Few things are more essential to career success in the modern world than a college diploma.[1] The English people recognized 250 years ago that an academic degree is "a great office, a dignity."[2] Today, as competition for jobs and for entry into professional schools has stiffened, the college degree has become an even more precious commodity.

For some college students, however, tuition and toil are not the only avenues to the desired degree. Many students, driven by the competitive atmosphere of the academic community, have resorted to fabrication,[3] plagiarism,[4] and even criminal wrongdoing[5] to obtain their

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* Professor of Law; Acting Dean of Library Services, Washington University School of Law, St. Louis, Missouri; B.A., Lynchburg College, 1965; M.S., Drexel University, 1966; J.D., University of Kansas, 1972; Ph.D., St. Louis University, 1984.

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[1] See Crook v. Baker, 584 F. Supp. 1531, 1556 (E.D. Mich. 1984), *vacated*, 813 F.2d 88 (6th Cir. 1987). The historical titles of the degree levels of bachelor, master and doctor are traced to the Middle Ages at the University of Bologna and University of Paris. See 1 RASHALL, THE UNIVERSITIES OF EUROPE IN THE MIDDLE AGES 19, 207 (Powicke and Emden, eds. 1951).

[2] Rex v. Cambridge Univ. 8 Mod. Rep. (Select Cases) 148, 92 Eng. Rep. 818, 2 Ld. Raym. 1334 (K.B. 1723). In this case, plaintiff sought the restoration of his doctoral degree which the university rescinded without a judicial hearing. The court granted plaintiff's writ of mandamus to restore the degree, noting that "God himself would not condemn Adam for his transgression until he had called him to know what he could say in his defense." 8 Mod. Rep. 148, 164 (1723). See generally Harker, *The Use of Mandamus to Compel Educational Institutions to Confer Degrees*, 20 YALE L. J. 341 (1911).

[3] See Memorandum Brief in Support of Motion for Summary Judgment at Appendix A, Crook v. Baker, 813 F.2d 88 (6th Cir. 1987) (citing academic journals regarding the growing problem of data fabrication). See generally *Fraudulent Credentials: Joint Hearing Before the Subcommittee on Health and Long-Term Care and the Subcommittee on Housing and Consumer Interests of the House Select Committee on Aging*, Comm. Pub. No. 99-550 (U.S. Govt. Printing Office) (December 11, 1985); Subcommittee on Health and Long-Term Care of the House Select Committee on Aging, FRAUDULENT CREDENTIALS: FEDERAL EMPLOYEES Comm. Pub. 99-571 (Comm. Print, 1986).

[4] See, e.g., Hill v. Trustees of Indiana Univ., 537 F.2d 248, 250 (7th Cir. 1976) (graduate student received failing grades because of plagiarism); Peles v. LaBounty, 90

degrees. Viewing this phenomenon with alarm, colleges have reacted strongly, even to the extent of revoking degrees conferred on former students.[6]

Courts have traditionally deferred to the academic community's autonomy in everyday operations, such as granting degrees.[7] The tension between the demand for degrees and wrongful means of obtaining them, however, is eroding the tradition of judicial deference and expanding the law's presence on America's campuses.[8] Students denied their degrees appear more willing to summon the judicial mechanism to obtain a degree to which they feel entitled.[9] Universities which attempt to rescind a degree already conferred, though, are subject to increased judicial scrutiny, especially of the procedures used to rescind the degree.[10]

This article examines whether public and private colleges have the authority to revoke already-conferred academic degrees, and what procedural safeguards are required to ensure fairness in the revocation process. This article limits its scope to university decisions to revoke degrees because of academic dishonesty. The refusal by universities to grant degrees or academic credit as a disciplinary response to other forms of student misbehavior, as well as issues raised by university decisions regarding college admissions, is not considered.[11]

Cal. App. 3d 431, 434, 153 Cal. Rptr. 571, 572-73 (1979) (graduate student expelled because of plagiarism). See generally MAWDSLEY, PLAGIARISM PROBLEMS IN HIGHER EDUCATION, 13 J.C. & U.L. 65 (1986); *Syracuse U. Revokes Ph.D. in Alleged Plagiarism Case*, Chron. Higher Educ., Oct. 12, 1983, at 3, col. 4 (Syracuse University revoked a doctoral degree awarded in 1976 after discovering anthropology thesis was plagiarized).

[5] One example of such criminal activity is tampering with grades. *U. of Georgia Expels 2 in Grade-Selling Incident*, Chron. Higher Educ., Sept. 5, 1984, at 2, col. 2 (two graduate students at the University of Georgia sold grades of "A" to undergraduates for $150.00 per grade). Increased use of computers in grade alteration schemes has made effective regulation difficult. See N.Y. Times, at 22, col. 1 (discussing recent discovery of grade-alterations through the use of computers at the University of Southern California).

[6] See Crook v. Baker, 584 F. Supp. 1531 (E.D. Mich. 1984), *vacated*, 813 F.2d 88 (6th Cir. 1987); Abalkhail v. Claremont Univ. Center, 2d Civ. No. B014012 (Cal. A.D. 1986), *cert. denied*, 107 S. Ct. 186 (1986); Waliga v. Board of Trustees of Kent State Univ., 22 Ohio St. 3d 55, 488 N.E.2d 850 (1986).

[7] See *Waliga*, 488 N.E.2d at 853.

[8] Kaplin, *Law on the Campus 1960-1985: Years of Growth and Challenge*, 12 J.C. & U.L. 269, 269-71 (1985).

[9] See cases cited *supra* note 6.

[10] The only cases directly on point are *Crook*, 584 F. Supp. at 1531; *Abalkhail*, 2d Civ. No. B014012 (Cal. A.D. 1986); *Waliga*, 488 N.E.2d at 850; Rex v. Cambridge Univ., 8 Mod. Rep. (Select Cases) 148, 92 Eng.Rep. 818, 2 Ld. Raym. 1334 (K.B. 1723).

[11] The Supreme Court has distinguished between actions involving academic decision-making and disciplinary decisions based on rules of conduct. See Horowitz v. Board of Curators of Univ. of Mo., 435 U.S. 78 (1978). The *Horowitz* doctrine received affirmation in Regents of the Univ. of Mich. v. Ewing, 106 S. Ct. 507 (1985). See also Amelunxen v. University of P.R., 637 F. Supp. 426 (D. P.R. 1986) (distinguishing between due process requirements when a student is dismissed for disciplinary reasons and for academic reasons); Napolitano v. Trustees of Princeton Univ., 453 A.2d 263 (N.J. Super.

Part I of this Article examines the sources of university authority to revoke degrees. Part II considers constitutional limitations on degree revocations. Part III discusses procedural protections available to public university students faced with revocation. Part IV examines procedural protections available in the private university context. The conclusion summarizes the current law on university revocation of degrees, and identifies issues still in need of resolution.

I. UNIVERSITY AUTHORITY TO REVOKE DEGREES

Whether a university, either public or private, possesses the authority to revoke an already-conferred degree has been a matter of little judicial attention. Recently, though, three courts have been faced with this question. A United States court of appeals in *Crook v. Baker*[12] noted the dearth of case law and concluded that a university has authority to revoke a degree. A California court of appeal upheld a revocation in *Abalkhail v. Claremont University Center* without expressly, but therefore impliedly, recognizing the authority to revoke.[13] The Ohio Supreme Court fully considered the issue in *Waliga v. Board of Trustees of Kent State University*, and also recognized the authority of universities to revoke degrees.[14]

In *Waliga*, Kent State University conferred undergraduate degrees on two individuals in 1966 and 1967, respectively.[15] Over ten years later the university discovered discrepancies in the academic records of these individuals, including credit granted for courses not taken or offered, and variances between grades the student actually received and those which faculty members initially reported to the registrar.[16] Concluding that these former students failed to complete substantive requirements for obtaining their degrees, the university initiated proceedings to rescind those degrees.[17] The former students challenged the university's authority to revoke by seeking a judgement declaring the rights and duties of each of the parties.[18]

The Supreme Court of Ohio recognized a university's power to revoke a degree.[19] The court offered two rationales for this conclusion. First, the court determined that under Ohio law any action necessary

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Ct. App. Div. 1982) (notice and opportunity to be heard are required in cases involving disciplinary actions but not when dismissal is for academic failure). *See generally* Fowler, *The Legal Relationship Between The American College Student and The College: An Historical Perspective and Renewal of a Purpose*, 13 J.L. & EDUC. 401 (1984); W. KAPLIN, THE LAW OF HIGHER EDUCATION 296, 302-14 (2d ed. 1985).

[12] 584 F. Supp. 1531 (E.D. Mich. 1984), *vacated*, 813 F.2d 88 (6th Cir. 1987).

[13] 2d Civ. No. B014012 (Cal. A.D. 1986), *cert. denied*, 107 S. Ct. 186 (1986).

[14] 22 Ohio St. 3d 55, 488 N.E.2d 850, 853 (1986).

[15] *Id.* at 850.

[16] *Id.* at 851.

[17] *Id.*

[18] *Id.*

[19] *Id.* at 853.

for the successful maintenance and operation of a state university is authorized unless statutorily prohibited.[20] Included in this implied authority, the court stated, is the power to revoke a degree when good cause is shown, such as fraud, deceit or error, and when the degree recipient is afforded a fair hearing.[21] Second, the court reasoned that:

> [a]cademic degrees are a university's certification to the world at large of the recipient's educational achievement and fulfillment of the institution's standards. To hold that a university may never withdraw a degree, effectively requires the university to continue making a false certification to the public at large of the accomplishment of persons who in fact lack the very qualifications that are certified.[22]

The court concluded that such a holding would "undermine public confidence in the integrity of degrees, call academic standards into question, and harm those who rely on the certification which the degree represents."[23]

The *Waliga* court found the authority to revoke a graduate's degree implicit in the basic power of colleges to confer degrees.[24] This conclusion is consistent with existing law, as far as that law goes. A student's enrollment at a college establishes a contractual relationship, under which the student becomes entitled to a degree upon compliance with the institution's graduation requirements.[25] In response, colleges are vested with the power to confer degrees on students complying with the institution's regulations and requirements.[26] The authority to

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[20] *Id.* at 852.

[21] *Id.*

[22] *Id.*

[23] *Id.* *See also* Steinbach, E. Gulland, and J. P. BYRNE, *Amicus Curiae Brief Filed in Waliga v. Bd. of Trustees of Kent State Univ.*, 14 C.L. DIG. 255 (printed in West's Education Law Reporter (NACUA) Special Pamphlet (May 3, 1984)).

[24] *Waliga*, 488 N.E.2d at 852.

[25] *See* Anthony v. Syracuse Univ., 244 A.D. 487, 231 N.Y.S. 435 (1928); People ex rel. Cecil v. Bellevue Hosp. Medical College, 60 Hun. 107, 14 N.Y.S. 490 (1891); Tate v. North Pac. College, 70 Or. 160, 140 P. 743 (1914); State ex rel. Burg v. Milwaukee Medical College, 128 Wis. 7, 106 N.W. 116 (1906).

It is generally accepted that the terms and conditions for graduation are those offered by publications of the college at the time of enrollment and, as such, they have the characteristics of a contract between the parties. See University of Miami v. Militana, 184 So. 2d 701, 704 (Fla. Dist. App. Ct. 1966). When a student is admitted by a private university, there is an implied contract between the student and the university that if he complies with the terms prescribed by the university he will obtain the degree which he seeks. The university cannot take the student's money, allow him to remain and spend his time, and then arbitrarily expel him or refuse to confer on him that which it promised, the degree. Carr v. St. John's Univ., 17 A.D.2d 632, 231 N.Y.S.2d 410, 413 (1962).

[26] *See generally* State ex rel. Nelson v. Lincoln Medical College, 81 Neb. 533, 116 N.W. 294 (1908); Foley v. Benedict, 122 Tex. 193, 55 S.W.2d 805 (1932); *State ex rel. Burg*, 106 N.W. at 116.

confer or refuse conferral is broad, providing school authorities with a large amount of discretion.[27] Normally, the faculty or other governing board of a college, whether public or private, is authorized to examine the students and to determine whether they have performed all the conditions prescribed to entitle them to a diploma.[28] Such authority requires the exercise of quasi-judicial functions, in which capacity the university's decisions are conclusive.[29] The only apparent limitation on the conferral power is that a degree may not be refused arbitrarily.[30]

This pre-*Waliga* body of law, however, considers only the conferral of degrees, and not the authority to revoke degrees already conferred. It is reasonable to conclude, as did the *Waliga* court, that a university should possess the power of revocation. Since a university can confer or refuse to confer a diploma for noncompliance with graduation requirements,[31] it follows that the institution should also be able to rescind a degree for the same shortcomings. Unless a university possesses the authority to revoke as well as to confer, its control over its degrees is unfoundedly split; for noncompliance with a university's graduation requirements, noncomplying students should suffer the same result, whether that result is obtained by refusal to confer or by revocation.

Contract law provides another theoretical basis for the same conclusion. If a student and college are deemed to enter into a contract upon the student's enrollment whereby the college promises to confer a degree upon fulfillment of its graduation requirements,[32] then failure to fulfill these prerequisites constitutes failure of a condition precedent.[33] The university is consequently relieved of its contingent duty to allow the student to possess a degree.[34] If a student obtains the

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[27] *See* Tanner v. Board of Trustees, 38 Ill. App. 3d 680, 363 N.E.2d 208 (1977) (a university is under a discretionary and not a mandatory obligation to confer degrees upon students enrolled in its courses).

[28] *See Militana*, 184 So. 2d at 704. *See generally* Annotation, *Student's Right to Compel School Officials to Issue Degree, Diploma, or the Like*, 11 A.L.R. 4TH 1182, 1185 (1982).

[29] *See* People ex rel. Moore v. Lory, 94 Colo. 595, 31 P.2d 1112 (1934); People ex rel. Pacella v. Bennett Medical College, 205 Ill. App. 324 (1932); Edde v. Columbia Univ. of New York, 8 Misc. 2d 795, 168 N.Y.S.2d 643 (1957), *cert. denied*, 359 U.S. 956 (1958).

[30] *See Tanner*, 363 N.E. at 208. This principle has long been in force; as early as 1723 the English courts recognized universities could not "give degrees to whom they please, and take them away *ad libitum*." Rex v. Cambridge Univ., 8 Mod. Rep. 1418, 151 (K.B. 1723).

[31] *See supra* notes 26-27 and accompanying text.

[32] *See supra* note 25 and accompanying text. *Cf.* Slaughter v. Brigham Young Univ., 514 F.2d 622, 626 (10th Cir. 1975), *cert. denied*, 423 U.S. 898 (1975) (some elements of contract law are applicable in analyzing student-university relationship, but contract law should not be rigidly applied in all its aspects).

[33] A condition precedent is a fact or event which the parties to a contract intend to take place before there is a right to performance. If the condition is not fulfilled, the right to enforce the contract does not come into existence. 3 WILLISTON, A TREATISE ON THE LAW OF CONTRACTS, § 663 (3d ed. 1961).

[34] *Id.*

university's performance by the student's wrongdoing, such as fraud or misrepresentation, rescission of the contract is an appropriate remedy, and the university can reacquire the degree the student wrongfully procured.[35]

In summary, a university's authority to revoke degrees is supported by a logical extension of its conferral power,[36] by "black letter" contract law,[37] and by the precedential authority of *Waliga* (as well as *Crook v. Baker* and *Abalkhail v. Claremont University Center*).[38] The procedures a university must follow in exercising its authority to revoke, however, implicate a number of different issues.

II. CONSTITUTIONAL LIMITATIONS ON UNIVERSITY REVOCATION OF DEGREES

If a university has the authority to revoke a degree, do any constitutional considerations limit the exercise of this authority? The answer is clearly in the affirmative. Although colleges enjoy great discretion in deciding whether to confer degrees,[39] once the college grants the degree its discretion in employing procedures to revoke the degree is governed by due process guidelines. *Crook v. Baker*,[40] the leading case in establishing the substantive and procedural due process rights of students threatened with degree revocation, demonstrates that courts will scrutinize a university's revocation procedures to ensure that they afford the degree recipient due process of law, as the fourteenth amendment to the Constitution requires.

In *Crook*, a graduate student at the University of Michigan's School of Geology and Mineralogy wrote his masters thesis on a new mineral he claimed to have discovered.[41] Two faculty members approved the thesis and Crook received his masters degree.[42] After the school con-

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[35] Rescission of a fraudulent contract and restoration of the situation which parties to a contract occupied before the fraudulent action occurred is one of the remedies available to a defrauded party. 12 WILLISTON, A TREATISE ON THE LAW OF CONTRACTS § 1523 (3d ed. 1961). The Sixth Circuit in Crook v. Baker noted the differences between the revocation of a degree that has been granted and the rescission of a contract for the sale of land. The granting of a degree by a university continuously certifies to the world that the recipient has fulfilled the university's requirements and this continues until the degree is revoked. 813 F.2d 88, 93 (6th Cir. 1987).

[36] See *supra* note 31 and accompanying text. See *also* Uyidi v. Governing Council, 8 A.C.W.S.2d 121 (Apr. 3, 1981) (statute regulating Governing Council of University of Toronto grants implicit jurisdiction over Council to revoke degree); Wojitas, *"Copycat" Student Loses Ph.D.*, The Times Higher Education Supplement, Aug. 8, 1981, at 5.

[37] See *supra* notes 32-35 and accompanying text.

[38] Waliga v. Board of Trustees of Kent State Univ., 488 N.E.2d at 853; Crook v. Baker, 813 F.2d at 90 (1986) (court recognized authority to revoke); Abalkhail v. Claremont Univ. Center, 2d Civ. No. B014012 (Cal. A.D. 1986), *cert. denied*, 107 S. Ct. 186 (1986)(court implicitly accepted authority to revoke).

[39] See *supra* notes 29-30 and accompanying text.

[40] 813 F.2d 88 (6th Cir. 1987).

[41] *Id.* at 95.

[42] *Id.*

ferred the degree, however, suspicion arose as to the authenticity of Crook's discovery.[43] The university formed a panel to investigate Crook's data and results.[44] The panel concluded that Crook fabricated his data.[45] The Executive Board of the Graduate School recommended that the university rescind Crook's degree[46] upon which recommendation the Board of Regents revoked the degree more than two years after its conferral.[47]

Crook challenged the revocation in federal district court claiming the Regents lacked statutory authority to revoke academic degrees, and that the sanction contravened the procedural and substantive protections of the fourteenth amendment's due process clause.[48] Assuming without deciding that the university possessed the authority to rescind the student's degree,[49] the district court held that the Regents' action deprived Crook of his constitutionally protected property and liberty interests[50] in violation of due process.[51]

In reversing, the United States Court of Appeals for the Sixth Circuit criticized the district court's finding that Crook had been denied both procedural and substantive due process.[52] The circuit court reviewed the procedural facts in detail. After receiving an allegation that Crook fabricated data in his thesis, the Geology and Mineralogy department investigated and determined that Crook had not actually carried out the electron microprobe-cum-computer analysis as represented in his thesis.[53] The department invited Crook to rerun his data on a computer with an improved program. This Crook did in February 1979. Unknown to Crook, the computer on which he reran his data was monitored by another computer which showed that Crook simply put into the computer the data that he wanted back.[54] On being confronted with the attempted deception Crook admitted that his "results" were not developed by the computer. The department concluded that

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[43] *Id.*

[44] *Id.* at 96.

[45] *Id.*

[46] *Id.* at 97.

[47] *Id.*

[48] Crook v. Baker, 584 F. Supp. 1532 (E.D. Mich. 1984).

[49] *Id.* at 1552. The court assumed that authority to revoke as it concluded the issue of authority need not be decided to resolve the present case.

[50] *Id.* at 1553-55.

[51] *Id.* at 1552, 1562.

[52] The Circuit Court noted the personal feelings of the judge tended to confuse the proceedings:

> Many of these findings apparently were intended by the district judge to reflect her feelings about this case and were not intended to be legally consequential . . . [T]he district judge takes occasion to make somewhat acerbic statements about various University personnel who played a part in the revocation of Crook's degree. . . . in short, the statements are largely, if not totally, gratuitous.

Crook v. Baker, 813 F.2d 94 (6th Cir. 1987).

[53] *Id.* at 95.

[54] *Id.*

Crook's contention that he had discovered a new mineral, "texasite," was false and the data fabricated.[55]

The dean of the graduate school sent Crook a letter setting forth the departmental charges of fabrication of data in his thesis. The letter announced the creation of an ad hoc disciplinary committee to hear the matter. The committee consisted of four faculty members, of which three were from the sciences or engineering disciplines, and a fifth member from the school of law, serving as chairperson, who would vote only to break a tie. No member of the committee was from Crook's department.[56] Crook employed an experienced trial attorney to represent him in the proceeding.

On June 20, 1979, the department filed with the committee more detailed charges and supporting documents. Crook was given extra time in which to respond. The hearing was held on September 22, 1979, with the full committee, Crook, his wife, his parents, and his lawyer present. A court reporter was also present and statements by those who testified were sworn to.[57] The University was represented by its general counsel and opening statements were made by the chair of the department, the general counsel, Crook and his attorney.[58]

Under the informal procedure of the committee, Crook could be represented by counsel, but none of the parties could examine or cross-examine witnesses.[59] The committee asked questions and the entire hearing took eight hours.[60] The committee reported on March 7, 1980, that the department had proven through clear and convincing evidence that Crook fabricated his data.[61] The committee did not recommend what action should be taken.

On May 7, 1980, the executive board of the graduate school considered Crook's response to the committee report and unanimously voted to recommend rescission of Crook's degree. The recommendation was reviewed by the designee of the Vice President of Academic Affairs who, on July 18, 1980, recommended that the Regents rescind Crook's degree.[62] On October 16, 1980, Crook's attorney argued his client's case to the Regents. They voted to rescind the degree. Crook then took his case to the courts. The United States District Court concluded that Crook's master's degree was an important property interest and that revocation implicated an important liberty interest. The district court found that Crook was denied a due process right to notice and an opportunity to be heard.[63]

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[55] *Id.* at 96.
[56] *Id.*
[57] *Id.*
[58] *Id.*
[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] *Id.* at 97.
[63] Crook v. Baker, 584 F. Supp. 1531 (E.D. Mich. 1984).

In overturning the district court's conclusion that Crook did not have notice, the United States Court of Appeals for the Sixth Circuit reviewed the notice requirements of *Goss v. Lopez*,[64] which held that a student was entitled to "oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story."[65] The court found that Crook had adequate notice, with evidentiary basis, of the charge both through the letter of April 10, 1979, from the Dean of the Graduate School and through the detailed statements served on Crook on June 20, 1979.[66]

The court found that the hearing procedures provided Crook with an opportunity to be heard. He had counsel present from the start; he had the opportunity to file a response to the charges; he had the opportunity to present witnesses and to have experts with him at the hearing; his counsel was free to advise him; and he made statements and questioned witnesses. Further, through his attorney, Crook filed exceptions to the committee's findings and his attorney argued his case before the Regents.[67]

Counsel for both sides agreed in advance to the prohibition against cross-examination of witnesses. The circuit court noted that, in academic hearings, cross-examination of witnesses is not required.[68] It is generally recognized that because academic decisions are made in academic surroundings by committees of highly educated persons with expertise in subject fields, they do not require cross-examination by counsel.[69]

The court also found that the University did not deny Crook substantive due process. The record demonstrated that the faculty decision to rescind the degree was made conscientiously and with careful deliberation reflecting professional judgment. The evidence of fabrication was so strong that the committee's determination was neither arbitrary nor capricious, but rather was supported by clear and convincing evidence.[70]

In summary, Part I of this Article supports the proposition that a university possesses the authority to revoke an academic degree when good cause is shown. *Crook* further asserts, as reflected in Part II, that an institution must provide the student with some due process before revoking the degree, in order to safeguard the student's constitutionally

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[64] 419 U.S. 565 (1975).

[65] *Id.* at 581.

[66] Crook v. Baker, 813 F.2d 88, 97 (6th Cir. 1987).

[67] *Id.* at 97-98.

[68] Frumkin v. Board of Trustees, 626 F.2d 19 (6th Cir. 1980) (procedural due process right does not include right to have attorney examine and cross-examine witnesses in academic proceeding).

[69] *Id. See also* Board of Curators of the Univ. of Mo. v. Horowitz, 435 U.S. 78 (1978).

[70] Crook, 813 F.2d at 88.

protected interests. Exactly what procedures due process requires, however, depends on whether the university considering revocation is public or private.

III. Protection Available to Students in Public Universities

The fourteenth amendment provides: "No state shall . . . deprive any person of life, liberty, or property, without due process of law. . . ."[71] The Constitution was designed to limit the exercise of governmental power in the public sector, not to prohibit private individuals or private universities from impinging on free speech, equal protection, due process and other freedoms. Thus, a private university can engage in private acts of discrimination, expulsion, and other actions against students without offering procedural safeguards that are constitutionally required of the public university.[72]

Originally the fourteenth amendment was intended to limit the power of the states. The United States Supreme Court expanded the "state action" concept in cases such as the "White Primary" cases and other racial discrimination cases in order to close obvious loopholes in the case law.[73] This perceived expansion of the state action concept was restricted in *Jackson v. Metropolitan Edison Co.*[74]

Before a court will apply fourteenth amendment guarantees of individual rights against a university, the court must determine that the institution's action constitutes "state action" as required under the fourteenth amendment.[75] The activities of a state-owned or state-operated university fall immediately within the state action doctrine, and therefore, must adhere to fourteenth amendment due process requirements.[76] Private universities' actions usually avoid the "state action" label so that these universities are not bound by the same due process safeguards applicable to public institutions.

The U. S. Supreme Court, however, has not directly addressed the state action issue in the university setting. Outside the university setting, the Court has most recently addressed the state action issue in

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[71] U.S. Const. amend. XIV, § 1.

[72] Powe v. Miles, 407 F.2d 73 (2d Cir. 1968). *See generally*, W. Kaplin, *supra* note 11, at 18.

[73] *See, e.g.*, Bell v. Maryland, 378 U.S. 226 (1964); Terry v. Adams, 345 U.S. 461 (1953); Shelley v. Kraemer, 334 U.S. 1 (1948); Smith v. Allwright, 321 U.S. 649 (1944); Nixon v. Condon, 286 U.S. 73 (1932); Nixon v. Herndon, 273 U.S. 536 (1927).

[74] 419 U.S. 345 (1974).

[75] U.S. Const. amend. XIV, § 1.

[76] For discussions of the state action doctrine, see Thigpen, *The Application of Fourteenth Amendment Norms to Private Colleges and Universities*, 11 J.L. & Educ. 171 (1982); O'Neil, *Private Universities and Public Law*, 19 Buffalo L. Rev. 155 (1969); Note, *Legal Relationship Between the Student and the Private College or University*, 7 San Diego L. Rev. 244 (1970). *See also* Annotation, *Action of Private Institution of Higher Education as Constituting State Action, or Action Under Color of Law, for Purposes of Fourteenth Amendment and 42 U.S.C.S. § 1983*, 37 A.L.R. Fed. 601 (1978).

a trilogy of cases: *Rendell-Baker v. Kohn*,[77] *Blume v. Yaretsky*,[78] and *Lugar v. Edmondson Oil Company*.[79] The trio of cases divides state action decisions into three categories:[80] the delegated power category,[81] the public function category,[82] and the government contacts category.[83] Courts have applied the government contacts category most frequently to higher education state action questions.[84] The government contacts category exists where a private entity such as a university obtains substantial resources, prestige or encouragement from its contacts with the government.[85] The following discussion examines the state action doctrine and applies it to the university setting.

Under the government contacts category, state action issues can be further subdivided into either the "symbiotic relationship" subcategory or the "nexus" subcategory. The "symbiotic relationship" subcategory requires the plaintiff to show that "the state has so far insinuated itself into a position of interdependence with . . .[the private entity] that it must be recognized as a joint participant in the challenged activity."[86] The "nexus" subcategory requires that an "inquiry [be made into] whether there is a sufficiently close nexus between the state and the challenged action of the private entity so that the action of the latter may be fairly treated as that of the state itself."[87]

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[77] 457 U.S. 830 (1982).

[78] 457 U.S. 991 (1982).

[79] 457 U.S. 922 (1982).

[80] See Kaplin, *supra* note 8, at 281-82.

[81] See, e.g., Terry v. Adams, 345 U.S. 461 (1953). The delegated power category exists where the private entity acts as an agent of the government in performing a particular task delegated to it by the government.

[82] See, e.g., Marsh v. Alabama, 326 U.S. 501 (1946). The public function category generally arises where the private entity performs a function ordinarily considered the responsibility of the government. In *Marsh*, the Court held that activities engaged in by a company-owned town engaged the town in a public function which constituted state action. *Id.*

[83] See, e.g., Reitman v. Mulkey, 387 U.S. 369 (1967); Burton v. Wilmington Parking Auth., 365 U.S. 715 (1961).

[84] See Kaplin, *supra* note 8, at 282. Kaplin states that "[a]rguments based on a 'delegated power' theory are seldom litigated." *Id.* One exception to this statement is Powe v. Miles, 407 F.2d 73 (2d Cir. 1968), where the court held that Alfred University was acting as a delegate of the State of New York with respect to certain actions of its ceramics college.

As to the public function arguments, they have generally failed when they have been utilized in the educational institution setting. See *generally*, Annotation, *supra* note 76. Greenya v. George Washington Univ., 512 F.2d 556 (D.C. Cir.), *cert. denied*, 423 U.S. 995 (1975), is one case representing this proposition. In *Greenya*, the court stated "[W]e have considered whether higher education constitutes 'state action' because it is a 'public function' as that term has been developed . . . and have concluded that it is not . . . . [E]ducation . . . has never been a state monopoly in the United States." *Id.* at 561 n.10. *But see* State v. Schmid, 84 N.J. 535, 423 A.2d 615 (1980), *appeal dismissed*, 455 U.S. 100 (1982), where the court extended analysis to the public function theory.

[85] See *supra* note 83.

[86] Burton v. Wilmington Parking Auth., 365 U.S. 715, 725 (1961).

[87] Jackson v. Metropolitan Edison Co., 419 U.S. 345, 351 (1974).

The latest United States Supreme Court decision applying the state action doctrine to the educational setting, *Rendell-Baker v. Kohn*,[88] used the government contacts test. In *Rendell-Baker*, a private school, discharged teachers for opposing school policies.[89] The teachers brought an action against the school alleging the discharges violated their free speech and due process rights.[90]

Because the school specialized in treating students who had drug, alcohol or behavioral problems, or problems completing public high school, most of the students were referred by local public schools or the state health department's drug rehabilitation division.[91] In addition, the school received funds for student tuition from local public school boards, and received reimbursement from the state health department for services provided to students the department referred.[92] The school was also subject to state regulation on various matters, many of which are common to all schools,[93] and to requirements concerning services provided under its contracts with the local school boards and the state health department.[94] Few of these requirements, however, related to policies concerning the hiring and firing of teachers.

Applying the government contacts theory, the Supreme Court held that state action did not exist.[95] As to the sources of the school's funding, the Court stated that the school did not differ fundamentally from many private companies whose business depends on government-related contracts. These private contractors' acts do not become governmental acts just because of significant, or even total, engagement in public contract work.[96]

The Court considered a second factor, government regulation, to determine whether state action arose in *Rendell-Baker*.[97] The Court reasoned that the state regulations involved in the case did not compel or influence the decision to fire the teachers; private management made that decision, without any governmental action.[98]

The Court rejected the teachers' two principal contentions. First, the teachers alleged that the school engaged in state action because it performed a "public function."[99] In response, the Court stated that the relevant question in a "public function" case is whether the function

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[88] 457 U.S. 830 (1982).

[89] *Id.* at 834.

[90] *Id.* at 834-35.

[91] *Id.* at 832.

[92] *Id.* at 833.

[93] The State had issued regulations concerning matters ranging from record keeping to student-teacher ratios. As to personnel policies, the state required the school to maintain written job descriptions and written statements of personnel policies and procedures. *Id.*

[94] *Id.*

[95] *Id.* at 840-42.

[96] *Id.* at 840-41.

[97] *Id.* at 841.

[98] *Id.* at 841-42.

[99] *Id.*

performed has been "traditionally the *exclusive* prerogative of the State."[100] In *Rendell-Baker*, the facts did not satisfy the public function test, for although educating maladjusted high school students is a public function, the Court determined a legislature's decision to pay for services does not make those services the "exclusive province of the states."[101] Secondly, the teachers contended that the school maintained a "symbiotic relationship" with the government because the government paid tuition and provided other funds to the school.[102] The Court responded that the school's financial relationship with the state did not differ from that of many private contractors who perform services for the government, so no symbiotic relationship existed in the case at bar.[103]

Rendell-Baker appears to represent the trend in state action litigation involving public post-secondary institutions.[104] The case protects many university activities from federal constitutional restraints. This protective barrier, however, is surmountable. If the government is directly involved in the challenged activity,[105] or if government officials are members of or support an institution's board of trustees, the symbiotic relationship test could be met, thus erecting a number of constitutional due process requirements.[106]

What specific constitutional requirements need to be met was a key issue in *Crook v. Baker*.[107] After determining that the Regents of the University of Michigan had the authority and power to revoke an academic degree,[108] the court turned to the question of the "quantum" of process due, or the procedural requirements that must be observed.[109]

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[100] *Id.* at 842 (citing Jackson v. Metropolitan Edison Co., 419 U.S. 345, 353 (1974)). (Emphasis added).

[101] 457 U.S. at 842.

[102] *Id.*

[103] Id. at 843. See also Litka v. University of Det. Dental School, 610 F. Supp. 80 (E.D. Mich. 1985). In *Litka*, the court dismissed the plaintiff's due process and equal protection claims because the plaintiff failed to show the presence of state action. The plaintiff asserted that state action was present because the defendant school received funds and operating expenses from the State of Michigan. The court rejected this argument stating that the defendant was a private institution and that "the mere act of receiving state funds is not enough governmental involvement to constitute state action." *Id.* at 81 n.1. See, e.g., Foster v. Ripley, 645 F.2d 1142 (D.C. Cir. 1981); Payne v. Government of D.C., 559 F.2d 809 (D.C. Cir. 1977); Spark v. Catholic Univ. of Am., 510 F.2d 1277, 1282 (D.C. Cir. 1975).

[104] See Kaplin, *supra* note 8, at 280, 284.

[105] See Lugar v. Edmondson Oil Co., 457 U.S. 922 (1982).

[106] For example, in *Rendell-Baker*, had the state been an active participant in developing the personnel dismissal policies, or had state regulation compelled dismissal for first amendment practices, then state action might have been found.

[107] 813 F.2d 88 (6th Cir. 1987). See also Waliga v. Board of Trustees of Kent State Univ., 22 Ohio St. 3d 55, 488 N.E.2d 850, 853 (1986) (constitutionally adequate procedures necessary to revoke degree).

[108] *Id.* at 10.

[109] *Id.* See, e.g., Morrisssey v. Brewer, 408 U.S. at 481 (1972) ("[D]ue process is flexible and calls for such procedural protections as the particular situation demands.").

The court determined that the district court had erred in extending extensive procedural safeguards to students accused of wrongfully obtaining degrees.[110] Crook specified various procedural due process safeguards which must be afforded a degree recipient prior to revoking the degree.[111] Notice and an opportunity to be heard, the court said, is the absolute minimum process due whenever the due process clause is applicable.[112] The right to effective representation by counsel, if requested by the student, is permissible in order to prevent prejudice to the accused's rights, and to make effective the right to be heard.[113] However, the right of cross-examination is not required in informal academic administrative hearings.[114] Crook also required that students be given the opportunity to present evidence to the decision maker, because this is important for showing a student's credibility and truthfulness to the decision maker.[115] That decision maker must be impartial and this can be accomplished with a hearing panel of distinguished faculty not directly related to the accused's department.[116] Finally, substantive due process requires a rational basis for the rescission; this can be accomplished by clear and convincing evidence of fabricated data or other evidence of wrongdoing.[117]

The *Crook* court concluded that the University met these procedural requirements, and therefore determined that the Regents had the authority to revoke the degree.[118] In *Crook*, the university involved was public, thus triggering the applicability of due process procedural safeguards. Does it follow then that a private university whose conduct

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[110] *Id.* at 20.

[111] *Id.* at 17.

[112] *Id.* at 17-18. *See, e.g.*, Goss v. Lopez, 419 U.S. 565 (1975).

[113] *Id.* at 18.

[114] *Id.* at 19. *See, e.g.*, Frumkin v. Board of Trustees, 626 F.2d 19 (6th Cir. 1980).

[115] *Id.* at 21.

[116] *Id.* at 22.

[117] *Id.* at 23. See, e.g., Regents of the Univ. of Mich. v. Ewing, 106 S. Ct. 507, 513 (1985):

> When judges are asked to review the substance of a genuinely academic decision, such as this one, they should show great respect for the faculty's professional judgment. Plainly, they may not override it unless it is such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment.

[118] *Id.* at 26. See, e.g., Mathew v. Eldridge, 424 U.S. at 335 (1976):

> [I]dentification of the specific dictates of due process generally requires consideration of three distinct factors: first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

See *also* Mahavongsanan v. Hall, 529 F.2d at 449 (5th Cir. 1976) (university official revoked academic degree which district court required be granted when appeals court found neither substantive nor procedural due process was denied).

does not constitute state action need not provide procedural safeguards to students faced with degree revocation? As discussed in the next section, the answer is not entirely clear.

IV. Procedural Protections Available to Private University Students

Whether the procedural protections which must be afforded to public university students facing degree revocation apply to students at private institutions has received little judicial attention.[119] Several theories appear applicable, however, thus ensuring a private university student some procedural protections.

The state action doctrine, while appearing to provide a basis for some protections, is of limited applicability in the private university context. It is generally recognized that the receipt of state and federal financial assistance does not constitute state action. Some greater nexus between the state and the challenged conduct is required. The absence of "state action," in the private university context is illustrated in the leading case of *Cannon v. University of Chicago*.[120]

In *Cannon*, the female plaintiff who had been denied admission to two private medical schools brought suit, charging the schools with age and sex discrimination.[121] The Seventh Circuit Court of Appeals held it lacked jurisdiction because no state action existed, and therefore, gave judgment for the universities.[122] In reaching this conclusion, the court used the "nexus" test, which requires a nexus between the state and the challenged conduct for the court to find the existence of state action.[123] The court failed to find a sufficient nexus. Stating that state action depends upon both the amount of state fiscal assistance as well as the type of injury alleged, the court found no state connection to the injury alleged nor any indication of state influence on the private universities' admissions decisions.[124] The court, therefore, decided not to divest the schools of their private character.[125] Moreover, the *Cannon* court stated, even had the state provided extensive financial assistance, no state action could be shown absent state affirmative support of the conduct challenged.[126]

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[119] The only case directly on point is the unpublished opinion in Abalkhail v. Claremont Univ. Center, 2d Cir. No. B014012 (Cal. A.D. 1986), *cert. denied*, 107 S. Ct. 186 (1986).

[120] 559 F.2d 1063 (7th Cir. 1976), *rev'd on other grounds*, 441 U.S. 677 (1979).

[121] *Id.* at 1067.

[122] *Id.* at 1071.

[123] *Id.* at 1070. *See supra* text accompanying note 80.

[124] *Id.*

[125] *Id.*

[126] *Id.* at 1071. *See also* Fredericks v. Washington Univ., No. 79-131C(3) (E.D. Mo. 1979). In *Fredericks*, a dental student brought suit against the university for wrongful dismissal, and violation of his due process rights. *Id.* at 1. The court explained that

Lacking a state action basis for claiming procedural safeguards, private university students may assert other grounds for obtaining procedural protections. As the *Waliga* court turned to the common law to find the authority of a university to revoke a degree in its authority to confer degrees,[127] one may reasonably assert that common law theories employed in conferral and dismissal cases apply to revocation cases as well. A significant factor in these cases is whether the university maintains and follows fair procedures in determining what action to take against a student.[128] Fair procedures that the university follows appear to receive judicial deference.[129]

In one of the earliest and broadest views of academic procedural requirements in a private university context, *Anthony v. Syracuse University*, decided in 1928,[130] a New York appellate court upheld the university's dismissal of a student although university authorities gave no specific reason for the dismissal other than stating that they did not think she was a "typical Syracuse girl."[131] Relying on the contract between the institution and the student, the court stated that as long as the reason fell within the university's dismissal policies or regulations, the school need not give a reason for its action.[132] In this case, the student was simply advised of her dismissal by officers of the university. No formal hearing was held. The court then deferred to the university officials' discretion in determining whether a student's dismissal fell within university regulations.[133]

Judicial deference to a private university's discretion is no longer quite so broad. In a more recent case, *Carr v. St. John's University, New York*,[134] the state appellate court, again relying on the implied contractual relationship between student and college, limited *Anthony* by holding that a private university could not act arbitrarily, but must exercise "an honest discretion based on facts within its knowledge that justify the exercise of discretion."[135] Another New York court restated this standard in *Kwiatkowski v. Ithaca College*,[136] ruling that a college's decision to discipline a student must be "predicated on procedures which are fair and reasonable and which lend themselves to a reliable

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constitutional due process provision apply solely to "state action," which was not present here. *Id.* at 2. The court noted that even had plaintiff proven general state financial aid to and state regulation of this private university, this would not constitute state action unless it was directly related to the university's decision to dismiss plaintiff. *Id.* at 7.

[127] *See supra* note 24 and accompanying text.

[128] *See*, e.g., Abalkhail v. Claremont Univ. Center, 2d Cir. No. B014012 (Cal. A. D. 1986), *cert. denied*, 107 S. Ct. 186 (1986).

[129] *Id. See also infra* notes 130-137 and accompanying text.

[130] 224 A.D. 487, 231 N.Y.S. 435 (1928).

[131] *Id.*

[132] *Id.*

[133] *Id.*

[134] 17 A.D.2d 632, 231 N.Y.S.2d 410 (1962).

[135] 231 N.Y.S.2d at 414.

[136] 368 N.Y.S.2d 972 (Sup. Ct. 1975).

determination."[137] Both cases support judicial deference to the university's decision when the university's decision is made in good faith and in accordance with basically fair procedures.

In *Slaughter v. Brigham Young University*,[138] the Tenth Circuit went beyond mere deference to university decisions, to suggest that procedural protections for private university students should parallel the protections available to public university students. In *Slaughter*, the university dismissed a student for violating the student code by making unauthorized use of a professor's name as coauthor of an article the student submitted for publication.[139] In upholding the university's decision, the court scrutinized the standards and procedures by which the student was dismissed. The court tested whether the university's action was arbitrary by re-examining both the adequacy of the procedures used and the evidence supporting the university's action.[140] The court used constitutional due process as a guide in determining the adequacy of the private university's measures.[141] The court concluded that the procedures followed by the university met the requirements of constitutional due process as applied to public universities,[142] and commented that under the circumstances of the case at bar, no need existed "to draw any distinction, if there be any, between the requirements in this regard for private and public institutions."[143]

The latest case on the revocation of academic degrees also found existing university procedures adequate to protect the former student faced with revocation of a degree. In *Abalkhail v. Claremont University Center*,[144] the private university granted the plaintiff a Ph.D. degree in 1979.[145] The following year suspicion arose as to the originality of the doctoral thesis.[146] The university did not have a standing committee or regulations for the investigation of post-degree-conferral charges, but the university appointed an investigative committee and implemented procedures to determine whether revocation was warranted.[147]

The procedures utilized were extensive. After receiving the investigative committee's report that academic dishonesty may have occurred, the dean of the graduate school which granted Abalkhail's degree informed him of the procedures thus far performed, and gave him notice of the formal hearing to be held and the procedures to be

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[137] *Id.*

[138] 514 F.2d 622 (10th Cir. 1975).

[139] *Id.* at 624.

[140] *Id.* at 625.

[141] *Id.* at 625-26.

[142] *Id.* at 625.

[143] *Id.*

[144] 2d Civ. No. B014012 (Cal. A.D. 1986), *cert. denied*, 107 S. Ct. 186 (1986).

[145] *Id.* at 2.

[146] The University received a communication in 1980 that the thesis contained material copied from another author's paper. *Id.*

[147] *Id.* at 3.

used.[148] At the hearing, which was recorded, Abalkhail received a copy of the letter of complaint instigating the proceedings, and was afforded an opportunity to present his views in the matter.[149] Abalkhail was permitted to question a witness and was asked to suggest any additional procedures he deemed necessary to ensure a fair hearing.[150]

The committee met with Abalkhail again, at which time he was apprised of additional evidence in the matter and allowed to give an explanation.[151] Thereafter, a committee member twice wrote Abalkhail, informing him of the evidence against him and inviting him to respond by a set date.[152] The committee then concluded Abalkhail plagiarized substantial portions of his thesis, and recommended revocation of his degree.[153] The university accepted the recommendation, revoked the degree, and notified Abalkhail of its action.[154] Abalkhail brought suit, alleging deprivation of due process protections and lack of a fair hearing.[155]

The California Court of Appeals upheld the university's action. The court first noted that an educational institution's decisions are subject to limited judicial review because educators are uniquely qualified to evaluate student performance.[156] Therefore, the court stated, only an abuse of university discretion would cause the court to set aside the university's decision.[157]

No such abuse of discretion occurred in *Abalkhail*. The court found that the plaintiff was entitled to procedural fairness, because revocation of a degree constitutes deprivation of a significant interest, but was entitled only to limited due process—the "minimum requisites of procedural fairness."[158] Positing that the sufficiency of particular procedures depended on the facts and circumstances of each case, the court found that Abalkhail received adequate notice of the charges against

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[148] *Id.* at 4-5.

[149] *Id.* at 6.

[150] *Id.* at 6-7.

[151] *Id.* at 9.

[152] *Id.* at 10-11.

[153] *Id.* at 11-12.

[154] *Id.* at 12.

[155] *Id.*

[156] *Id.* at 13.

[157] *Id.*

[158] *Id.* at 15. *See, e.g.*, Pinsker v. Pacific Coast Soc'y of Orthodontists, 12 Cal. 3d 541, 526 P.2d 253 (1974) (A society with a public interest is subject to the common law fair procedure requirement in which applicant receives notice and is given a fair opportunity to defend himself.); Anton v. San Antonio Community Hosp., 19 Cal. 3d 802, 567 P.2d 1162 (1977) (The common law requirement of a fair procedure does not compel a non-profit group to provide formal proceedings with all the embellishments of a trial court.); and Ezekiel v. Winkley, 20 Cal. 3d 267, 572 P.2d 32 (1977) (A non-profit corporation must afford the accused some rudimentary procedural and substantive fairness including adequate notice of the charges against him and a reasonable opportunity to respond. Formal trial-like proceedings are not required.).

him, of the possible consequences, and of the procedures to be used.[159] These procedures, the court concluded, afforded Abalkhail fair notice, and a fair opportunity to present his position, and, on the whole, a fair hearing.[160]

In summary, although private universities are not required to afford the complete package of constitutional due process protections, courts expect private universities to provide some minimal procedural protection to ensure at least fundamental fairness in decisions to revoke academic degrees.

CONCLUSION

While judicial authority concerning revocation of degrees is conspicuously lacking, the issue is important and probably subject to increased judicial attention in the future. Until such judicial refinement takes place, the issues involved and the present state of the law appears as follows.

Clearly, both public and private universities possess the authority to revoke degrees already conferred. This authority is based on both a logical extension of the authority to confer degrees, and a reasonable application of contractual principles.[161]

The procedural protections a university must afford students faced with revocation, however, depend upon the public/private dichotomy. In a public institution, revocation proceedings must meet the standards imposed by the federal constitution, including procedural and substantive due process.[162] In the private university context, however, the state action doctrine precludes the judicial requirement of the full due process safeguards public universities must afford. While some cases have demonstrated judicial deference to the decisions of universities, a trend appears to be developing in which courts require private universities to provide procedures at least similar to those required by the due process clause.[163] Protection may be sufficient if the university's procedures are basically fair and the student receives adequate notice of the procedures.

Are separate procedural frameworks justified by the public/private distinction? The answer probably varies with one's perspective. From a student's view, differing standards make little sense. Whether a student attends a public or private institution, a potential loss of the degree conferred is a matter of great importance. Any student would, therefore, desire all possible procedural safeguards to ensure that a degree revocation is truly justified. From the university's viewpoint,

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[159] *Id.* at 16-18.

[160] *Id.* at 21.

[161] *See supra* notes 12-38 and accompanying text.

[162] *See supra* notes 39-70 and accompanying text.

[163] *See supra* notes 71-160 and accompanying text.

an inconsistency in procedural frameworks is also questionable. Public institutions surely object to having to implement more extensive and more expensive safeguards than their private counterparts.

The dichotomy is perhaps best justified from the judicial perspective. Courts see state action when public universities make decisions, and no state action when private institutions act, and can justify differing procedures by the applicability of the due process clause only where state action appears. Courts may also justify the distinction on the ground that required procedures for both public and private university procedures, while not identical, are at least perhaps congruous, and afford fundamentally fair protection.

A final area yet to be addressed in rescission cases involves student rights under state constitutional provisions, relevant state statutes, state administrative regulations, or state common law. In certain jurisdictions these sources may provide a sound basis for arguing the student's position especially against a private university.[164] It is hoped that the future will bring some judicial pruning of this thicket of issues, so that a cogent body of law on the revocation of academic degrees may grow straight and true.

Lastly, all universities and their faculties should heed the dictum in *Crook v. Baker* that close faculty supervision and proper mentor oversight and review in the research process could avoid such unfortunate occurrences: "[W]hile the Department . . . must assume its graduate degree candidates to be honest, this unfortunate occurrence might not have happened if the department had exerted somewhat closer oversight over its graduate students and more care in reviewing their theses."[165]

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[164] See, e.g., Board of Regents v. Roth, 408 U.S. at 577 (1971). The court stated: "Property interests . . . are not created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law—rules or understandings that secure certain benefits and that support claims of entitlement to these benefits." *See also* Cleveland Bd. of Educ. v. Loudermill, 105 S. Ct. 1487 (1985) (property interests protected by due process are created and defined by independent source such as state law).

[165] Crook v. Baker, 813 F.2d at 101 (6th Cir. 1987).