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From the Classroom to Court: Tuition Reimbursement Lawsuits

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Following the move by institutions of higher learning to an online learning environment as a result of COVID-19, students nationwide are filing class action lawsuits demanding tuition reimbursement. The students' complaints allege online learning is an inadequate substitute for their traditional classroom education and that the institutions breached their contracts when they moved classes online and then enriched themselves with tuition revenue they should have returned to the students. Many of the complaints allege the institutions should have pro-rated the spring 2020 semester tuition and reimbursed the students for services not provided.

Over a hundred lawsuits have been filed to date. One plaintiffs' firm, which is handling 18 of the lawsuits, created a website to allow students to join existing lawsuits or help spearhead new cases. A number of the complaints cite historical differences in tuition for online classes. For instance, Drexel University allegedly offered the same classes online and on campus during previous semesters, but at 40 percent of the on-campus cost for the virtual students. Relying on these comparisons, the lawsuits claim current students should receive a tuition rebate for the institution's move to mandatory online learning. In one lawsuit against a university, an unnamed plaintiff, "Student A," claims the online learning options, which resulted after the campus shut down physical classrooms in mid-March, are "subpar in practically every respect," stating that the resulting lack of access to materials, facilities and faculty are in no way equal to the in-person education that was promised by the university and paid for by the students.

While Student A is referenced as a graduate student, the complaint characterizes the potential class as any and all students who paid the cost of tuition and other fees for the Spring 2020 semester. Some of the other lawsuits also ask for reimbursement for campus fees, like health insurance and recreation centers. Most of the lawsuits are filed in the hometown of the named plaintiff and include state law breach of contract and unjust enrichment claims. Even those colleges and universities not presently facing lawsuits are seeing increased rates of strikes and other student-led protests demanding tuition reimbursement.

These suits face many legal challenges, including overcoming jurisdictional concerns and proving damages such as the value of receiving a college education via a virtual platform versus the traditional method of attending in-person classes, and the damage to the students' ability to gain employment. In addition, the doctrines of force majeure or impossibility may be available, despite there usually being no written contract between colleges and their students. Colleges and universities should continue to act in good faith in providing the expected quality education to and otherwise meeting the needs of their students, while protecting them during the COVID-19 pandemic. Moreover, to avoid or limit the fact-intensive and costly process of defending these lawsuits, institutions should be proactive by developing a plan for analyzing, evaluating, responding to, and otherwise mitigating the issue of tuition reimbursement and other issues their respective institutions may face as a result of the COVID-19 pandemic.

For specific guidance or more information on this alert, please contact [Mark Baugh](#), [Daisy C. F. Karlson](#), or another member of [Baker Donelson's Higher Education Group](#) who are ready to help you identify a plan to mitigate potential risks. For more information and general resources on how to address legal issues related to

COVID-19, please visit the [Coronavirus \(COVID-19\): What You Need to Know](#) information page on our website.