

UPDATES FROM THE FIELD

Celebrating 40 Years of Working Together for Youth Justice and Safety

On September 7, 1974, the Juvenile Justice and Delinquency Prevention Act was signed into law. This landmark legislation established the Office of Juvenile Justice and Delinquency Prevention and forever changed the way States and communities deal with at-risk youth and those who are involved in the juvenile justice system.

Today, violent crime arrest rates for youth are at their lowest point since at least 1980. Between 1997 and 2011, the population of youth in residential placement declined by 42 percent, and the number of youth in residential placement for committing status offenses like violating curfew, running away from home, and underage drinking has decreased by 64 percent. To read the article in its entirety, visit:

<http://www.justice.gov/opa/blog/celebrating-40-years-working-together-youth-justice-and-safety>; and for additional 40th anniversary resources from OJJDP, visit: www.ojjdp.gov/JJDPais40.html

Use of Drugs and Alcohol Among Teens Declines Again

The rate of drug and alcohol use among American teens continues to decline, a new government study indicates.

Between 2002 and 2013, teens' rate of regular alcohol use declined from 17.6 percent to 11.6 percent. During that period, marijuana use among teens ages 12 to 17 also declined. Teens' recreational use of prescription painkillers decreased as well.

"This report shows that we have made important progress in some key areas, but that we need to rejuvenate our efforts to promote prevention, treatment and recovery, to reach all aspects of our community," Substance Abuse and Mental Health Services Administration (SAMHSA) Administrator Pamela Hyde said in an agency news release. To learn more visit:

<http://www.drugfree.org/join-together/use-drugs-alcohol-among-teens-declines/>.

INNOVATIVE APPROACHES TO REDUCING UNDERAGE DRINKING IN STATES

State Liquor Agency will Look into How Teens in Deadly Crash Got Alcohol

The Colorado State Patrol confirmed to KRDO News Channel 13 that the Colorado Department of Revenue Division of Liquor Enforcement is now involved in the investigation into the crash that killed two Monument teenagers. Colorado State Patrol said they believe all four teenagers in the car were under the influence of alcohol at the time of the crash. Investigators want to know how the teenagers obtained alcohol and if any additional charges should be filed. To read more, visit: <http://www.krdo.com/news/state-liquor-agency-will-look-into-how-teens-in-deadly-crash-got-alcohol/27888158>.

UDETIC WEBINARS

TRAPPED SOBER: Idaho's Success in Engaging Youth in Underage Drinking Prevention

Date: Thursday, October 9, 2014

Time: 3:00 p.m. – 4:00 p.m. ET

The Bonneville Youth Development Council (BYDC) works with youth to prevent underage drinking and other substance abuse in Bonneville County. As a EUDL-supported program, BYDC has engaged youth in the development of the Council's prevention work providing a unique perspective and insight into what reaches teens best and to make positive changes in their community. This webinar will showcase what BYDC is doing to engage youth in these activities and to give helpful tips to keeping youth involved. To register for this webinar, visit: <http://www.udetc.org/audioconfregistration.asp>.

A Judicial Conversation on Emerging Evidentiary Issues and Alcohol

Date: Thursday, November 13, 2014

Time: 3:00 p.m. – 4:00 p.m. ET

Depending on the State's laws, underage drinking offenses may be referred to a number of courts including juvenile court, traffic court, criminal court, or family court, depending on the offense. Over time, many States have adopted changes in state law enabling law enforcement to charge minors based on officer observations, and theories of constructive possession. As these underage drinking cases are brought forward, the courts are also asked to accept the results of fuel cell developed evidence of the offense. Results from electronic identification scanners, portable breath test devices, and passive alcohol sensing devices may or may not be admissible in some courts. This program will discuss some of the evidentiary issues the courts are finding on the issue of underage drinking and our panel of judges will offer their perspectives on how their courts look at this topic.

To register for this webinar, visit:

<http://www.udetc.org/audioconfregistration.asp>.

LEGAL CASE

"Can a Fraternity Event be Held in a Private Residence?"

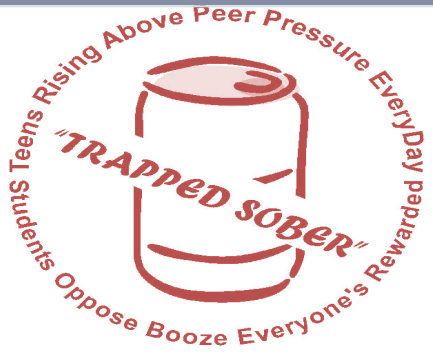
On April 17, 2014, the Appellate Division of the Supreme Court of New York, Third Department rendered their opinion in the Matter of Lampert v. State Univ. of NY at Albany, 2014 NY Slip Op 2657 - NY: Appellate Div. This case involves an appeal of a college student who was suspended from the University based upon his hosting of an off campus underage drinking party; and offers the reader an excellent opportunity to read how the Court handles this appeal brought by a college student based upon off campus activities. To learn more visit:

<http://www.udetc.org/documents/ResourceAlerts/October2014case.pdf>

To print a copy of this month's *Resource Alert*, visit:

www.udetc.org/documents/ResourceAlerts/ResourceAlert1014.pdf.

Visit www.udetc.org for the latest information on underage drinking.



REGISTER ONLINE NOW!

To register, please visit <http://www.udetc.org/audioconfregistration.asp>
and complete the online registration form

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3:00 – 4:00 pm Eastern Time

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PRESENTERS:

Alisha Passey
Coalition Coordinator
BYDC's Promise

Shelby Bauer & Stephan Bills
Youth Coalition Members
BYDC's Promise

MODERATOR:

Mary V. Gordon
UDET Director
PIRE

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PRESENTER:

Judge Thomas Bianco

*Indiana County Court
Indiana County, PA*

Judge Gerald Williams

*Maricopa County Justice Court
Surprise, AZ*

MODERATOR:

Aidan Moore, J.D.

*UDET Senior Program Manager
Pacific Institute for Research and Evaluation*

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**In the Matter of DANIEL LAMPERT, Petitioner,
v.
STATE UNIVERSITY OF NEW YORK AT ALBANY, Respondent.**

[517278.](#)

Appellate Division of the Supreme Court of New York, Third Department.

Decided April 17, 2014.

Robert M. Cohen, Ballston Lake, for petitioner.

Eric T. Schneiderman, Attorney General, Albany (Jonathan D. Hitsous of counsel), for respondent.

Before: Peters, P.J., Lahtinen, Rose and Egan Jr., JJ.

Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Albany County) to review a determination of respondent which, among other things, placed petitioner on disciplinary suspension.

MEMORANDUM AND JUDGMENT

ROSE, J.

Petitioner, a student at respondent and a member of a fraternity, hosted a weeknight party at his off-campus apartment during the peak of respondent's fraternity pledging period. Local police, responding to complaints of noise at the apartment, discovered underage drinking as well as three individuals whose dangerous levels of intoxication required medical assistance. Petitioner and his roommates were arrested and respondent referred them to its disciplinary process for violating the student code of conduct regarding hazing, alcohol, compliance and disruptive conduct. After a hearing before respondent's Judicial Board, petitioner was found to be in violation of each charge and was suspended from November 2012 through May 2014. The determination was upheld on administrative appeal, and this proceeding ensued.

Petitioner limits his substantive challenge to the determination that he violated the hazing and alcohol provisions of the code of conduct, claiming that the evidence does not support those charges. The code of conduct defines hazing as "any reckless or intentional conduct in connection with the initiation into or affiliation with any organization which degrades, humiliates or endangers the mental or physical health of any person, regardless of the person's willingness to participate." An alcohol violation is defined as "[u]se, possession, or distribution of alcoholic beverages except as expressly permitted by the law and University regulations." Our review of the record with respect to each of these claims is limited to whether respondent's determination is supported by substantial evidence (*see* CPLR 7803 [4]; *Matter of [Schwarzmueller v State Univ. of N.Y. at Potsdam](#), 105 AD3d 1117, 1120 n [2013]*). We find that it is.

Upon responding to the apartment, the police found 30 to 40 underage drinkers, half of whom fled out the back door, a keg of beer and multiple bottles of liquor, a 15-gallon plastic tub of vomit on the floor in the living room, "dirt and vomit all over the floor" and three students so intoxicated as to require medical attention. Each of those three students had expressed interest in joining petitioner's fraternity. Petitioner's roommates were officers of the fraternity, their apartment was adorned with fraternity paraphernalia, the fraternity had no house of its own and one of the roommates told police that the party was "for the pledges." This evidence and the reasonable inferences to be drawn therefrom support the determination that petitioner violated both the hazing and alcohol provisions in the code of conduct by recklessly allowing alcohol to be consumed in excess at a party held for his fraternity at his apartment, thereby endangering the physical health of three underage students interested in becoming members of the fraternity. Petitioner's contentions that the party had nothing to do with the fraternity, no hazing occurred and he was unaware that any of the attendees were so intoxicated as to require medical attention presented credibility issues that were within the sole province of respondent to determine, and we will not disturb them (*see Matter of Dewitt v New York State Bd. of Law Examiners*, 90 AD3d 1457, 1458 [2011], *lv denied* 18 NY3d 810 [2012]; *Matter of Ernst v Saratoga County*, 251 AD2d 866, 867 [1998]).

Petitioner's claimed procedural errors with respect to his temporary suspension, the make-up of the Judicial Board and the incomplete recording of the hearing are unpreserved due to his failure to raise them at the hearing or in his administrative appeal (*see Matter of Madden v Griffin*, 109 AD3d 1060, 1061 [2013], *lv denied* 22 NY3d 806 [2014]; *Matter of Cagle v Fischer*, 108 AD3d 913, 913 [2013]; *Matter of Tafari v Evans*, 102 AD3d 1053, 1054 [2013], *lv denied* 21 NY3d 852 [2013]). As for his preserved procedural challenges, the record reflects that respondent substantially complied with its procedures and provided petitioner adequate notice of the charges against him. Respondent also provided petitioner with an adequate opportunity to prepare for the hearing and respond to the charges during the hearing, as well as a statement detailing the factual findings and evidence on which the discipline was imposed (*see Matter of Schwarzmuller v State Univ. of N.Y. at Potsdam*, 105 AD3d at 1118; *Matter of Hyman v Cornell Univ.*, 82 AD3d 1309, 1310 [2011]; *Matter of Mary M. v Clark*, 100 AD2d 41, 43-44 [1984]). Finally, given the serious nature of the violations and the risk posed to the health and safety of students, we do not find the penalty imposed "so disproportionate to the offense, in the light of all the circumstances, as to be shocking to one's sense of fairness" (*Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222, 233 [1974] [internal quotation marks and citations omitted]; *see Matter of Quercia v New York Univ.*, 41 AD3d 295, 297 [2007]; *Matter of Rensselaer Socy. of Engrs. v Rensselaer Polytechnic Inst.*, 260 AD2d 992, 994 [1999]).

Peters, P.J., Lahtinen and Egan Jr., JJ., concur.

ADJUDGED that the determination is confirmed, without costs, and petition dismissed.