COLUMBIA — An advocacy group is asking the Missouri Supreme Court to overturn an appeals court ruling that course outlines used by University of Missouri faculty are not public records.

The National Council on Teacher Quality, based in Washington, D.C., argued in a motion filed Wednesday that the Missouri Court of Appeals Western District was incorrect when it ruled that the course syllabi are protected by federal copyright law as intellectual property of faculty members, The Columbia Daily Tribune reported.

The appeals court ruling in August upheld a Boone County court decision that the course outlines are not public records.

The lawsuit filed in Missouri is part of a national effort by the not-for-profit National Council of Teacher Quality to monitor what aspiring teachers learn in college. The group filed a motion in October 2012 asking that the syllabi be released under Missouri’s Open Meetings and Records Law.

It argued in its petition to the state Supreme Court that the appeals court ruling did not acknowledge that federal copyright laws include a fair use exception for "nonprofit educational purposes."

"We've run this up the flagpole with a number of legal minds we think know this area of law well. They're pretty confident we can prevail," National Council on Teacher Quality President Kate Walsh said. "At this point, it's not even a matter of getting the materials — we can get them from students and faculty. At this point, it's principle. It establishes a terrible precedent."

The organization hired lawyers in nine states while trying to acquire syllabi for the evaluation project, Walsh said. In six of those states, universities complied with the records requests after
receiving letters from lawyers. In Wisconsin, a lawsuit was settled out of court in favor of the council and the organization won in district and appeals courts in Minnesota.

University of Missouri System spokesman John Fougere said the university is pleased with the court rulings so far.

"In responding to the NCTQ's request for course syllabi, we felt it was important to respect the rights of the faculty members who created the syllabi," he said in an email. "We are pleased that both courts to review the matter thus far have concluded that we acted lawfully."

University of Missouri set for $38.5M in bonds

COLUMBIA, Mo. (AP) — A panel of top Missouri officials has given approval to issue bonds for $38.5 million to renovate an engineering building at the University of Missouri-Columbia.

The Board of Public Buildings on Thursday gave final authorization for the bonding, which will pay to fix aging parts of Lafferre Hall. Portions of the College of Engineering building were built in 1935 and 1944.

The bonds also will pay for a new lab.

The Missouri Legislature in May approved $200 million in bonding for repairs and renovations to existing college buildings and $400 million for state buildings. Lafferre Hall is the first to get bonding approval.

Renovations are scheduled to be completed by December 2016.
After touring aging and deteriorating portions of the sprawling Lafferre Hall on the University of Missouri campus Thursday morning, Gov. Jay Nixon voted as a member of the state’s Board of Public Buildings to authorize a $38.5 million bond issue for the building’s renovation and repair.

The board — which is composed of Nixon, a Democrat; Attorney General Chris Koster, also a Democrat; and Republican Lt. Gov. Peter Kinder — voted unanimously to authorize the bond issue.

But to complete the transaction, Nixon’s office still needs to OK the release of the bond funds and $2.5 million in general revenue to pay debt service, which he is withholding from an appropriation bill to renovate state buildings that he signed earlier this year.

Scott Holste, a spokesman for Nixon’s office, said it has not been determined when Nixon would release the withheld funds.

Money from the bond issue will go to renovate portions of Lafferre Hall, which houses the MU College of Engineering, constructed in 1935 and 1944.

Marty Walker, director of administrative services for the College of Engineering, led Nixon and reporters through the narrow hallways of those parts of the buildings, stepping over buckets left on the floor to catch leaks from ceilings and showing the guests laboratories and classrooms crammed into makeshift spaces.

Walker said the building has been added to about 10 times, with latest addition completed in 2009.

In that time, Walker said, the university has worked to keep Lafferre Hall within the same footprint, which has encouraged vertical growth.

The college uses “space more judiciously,” Walker said.

The sporadic additions to Lafferre have given the building’s interior a patchwork of designs from different decades and a maze-like floor plan.

“It’s a mess over there if you’ve ever been inside the building,” said Karlan Seville, a spokeswoman for MU Campus Facilities.

The improvements to Lafferre will include a new, simplified floor plan and will address more than $15 million worth of deferred maintenance. Work will also free up an additional 20,000 square feet worth of space available for classrooms and laboratories.

The university plans to start work on the building early next year, and Seville said work is scheduled for completion by spring 2017.

COLUMBIA MISSOURIAN

Board of Public Buildings approves MU's Lafferre Hall renovation bond
Marty Walker, MU Engineering Building Administrator, points out aged and dilapidated parts of room C2203 in Lafferre Hall to Gov. Jay Nixon Thursday. After a tour, The Board of Public Buildings approved $38.5 million in bonding to renovate and repair Lafferre Hall.

BY CAITLIN HOLLAND

COLUMBIA — The state Board of Public Buildings approved $38.5 million in bonding to renovate and repair MU College of Engineering’s Lafferre Hall following Gov. Jay Nixon’s tour of the complex Thursday.

The board is made up of Nixon, Lt. Gov. Peter Kinder and Attorney General Chris Koster. All three voted in favor of the bond. No funds are required to be released right now, but the action commits the necessary funding for their repayment and the cost of the project, Ryan Burns, state public information officer, said in an email.

Lafferre Hall, on the southwest side of Francis Quadrangle, has long been high on the list of MU campus facilities in need of care. Before the meeting, building coordinator Marty Walker guided Nixon through narrow hallways — complete with scattered trashcans and containers under leaking pipes — and into classrooms and labs.
"The portions I got a chance to look at were eerily similar to when I was over here with my roommate when I was an undergraduate," Nixon said during the board meeting. "He was complaining in the 70s, so when it comes to repair maintenance and renovation projects, this is one that clearly is on the top of the list."

MU Chancellor R. Bowen Loftin said at the board meeting that about 3,600 students are in Lafferre every day and called the section to be renovated the "heart of the Lafferre Hall complex."

He said the College of Engineering is the fastest-growing school at MU, and the demand for engineers across the state is high.

"This university needs to be at the forefront of serving the needs of the state in this particular discipline, which has such high demand," he said.

On the tour, Nixon saw portions of the complex expanded in 1935 and 1944, as well as one added in 2009. On the tour of the older parts of Lafferre, Walker pointed out a spot where a small part of the ceiling fell through earlier that morning, as well as structural inconveniences for students with disabilities or injuries. For example, Walker explained how students must go down to the first level to get from the west side of the second floor to the east side.

Nixon told reporters after the meeting that he is proud that the legislature and executive branch came together for the Lafferre project. He said the field of engineering is "vitally important" to the state’s economy.

Mizzou freshmen basketball players face reduced charges

October 15, 2014 12:55 am  •  By Dave Matter dmatter@post-dispatch.com 314-340-8508

COLUMBIA, Mo. • Missouri freshman basketball players D’Anglo Allen and Jakeenan Gant will be charged with peace disturbance by fighting, a reduced misdemeanor charge from their September arrest in Columbia, Boone County assistant prosecutor Jessica Meredith said today.
Allen, Gant and another 22-year-old man were arrested and issued tickets on suspicion of third-degree assault after an alleged fight downtown on Sept. 14. Officers responded at 1:34 a.m. to reports of an assault in the area of Eighth Street and Elm, the northwest edge of Mizzou’s campus by the journalism school.

Meredith said the peace disturbance by fighting charge was appropriate for the information that was gathered after the incident. Peace disturbance is a class B misdemeanor on the first conviction. Allen and Gant face an upcoming court date.

Missouri basketball coach Kim Anderson suspended both players following the arrest and reinstated them earlier this month after they fulfilled several conditions of their suspension. Both players played in Tuesday night’s Black and Gold scrimmage.

After reinstating the freshmen and the departure of guard Cameron Biedscheid, Anderson stressed the need for discipline and standards within the program.

“Look, here’s the deal,” he said Oct. 2. “This is the University of Missouri. We have certain expectations for our student athletes. So, when those expectations aren’t met, then there are consequences. … I’m not a difficult guy to get along with. The guys who aren’t here anymore, it wasn’t a deal where they didn’t get along with me. It’s a situation where we’re going to do things a certain way. That’s what I was hired to do. Unfortunately, things have happened. … We do need to establish what we are, who we are. This is the University of Missouri basketball team. We don't have unrealistic expectations. I don’t make everybody in by 9 every night or any of that stuff. But we are going to have some guidelines.”

According to the police incident report, three alleged victims, all male, whose names were not released in the report, were walking east on Elm and were jumped by three or four black males. A 20-year-old male victim was hit two to three times while he was trying to help his friend who was on the ground getting assaulted by the suspects. The second male victim, also 20, told police he was assaulted while walking with his two friends and that one of the suspects dropped his wallet during the incident. The third victim said he was assaulted while he was on the ground. The wallet belonged to Gant, according to the report.

University police stopped three males who matched the description given by the alleged suspects near 404 Kentucky Blvd., the dorm address where Allen and Gant live. The witnesses identified all three suspects. All three were arrested on suspicion of third-degree assault — a Class C misdemeanor — and released on signature summons.
UPDATE: MU Student now safe after alleged disappearance

According to a screenshot of text messages time-stamped at 1:16 a.m., Akintola is with her family.

According to a picture posted by Twitter user @JayWeirdo, Olaitan Akintola is now safe after her alleged disappearance from campus Wednesday afternoon.

Akintola is listed in the MU Directories as a senior studying psychology and is currently listed as the president of the MU Student Circle chapter of the National Association of Black Psychologists.
Earlier in the evening, multiple social media posts alleged that Akintola was last seen on campus passing by Hitt Street Garage at 4:30 p.m. and claimed she was missing.

According to another post, both Columbia and MU Police and Akintola’s parents had been notified.

CPD dispatchers were not able to confirm whether the department had received such report.

MU spokesman Christian Basi and MUPD spokesman Brian Weimer were unavailable for immediate comment.

MU extends no-smoking ban to city-owned streets on campus

Parts of Conley, Hitt, Ninth and Rollins streets are now off-limits to smokers.

Columbia City Council voted Oct. 6 to give MU the rights to extend its smoking ban to certain city streets on campus.

This is the next step in a timeline designed to eliminate smoking on campus. In July 2011, MU revised its policy so that smoking would only be allowed in designated areas. On July 1, 2013, smoking was banned everywhere on campus.

However, there have been exceptions. Parts of Conley Road, Hitt, Ninth and Rollins streets are labeled as “city streets” and were previously not under MU’s non-smoking permit.

Wellness Resource Coordinator Tiffany Bowman said she has worked closely with the student-led movement to ban smoking on campus, launched by MSA in 2009. Bowman said the policy may not work 100 percent of the time, but there have been vast improvements.

“The idea came from the students,” Bowman said. “They were the ones who wanted to see a reduction of smoking on campus. The new regulations make the rules more consistent and fair.”

According to the Center for Disease Control and Prevention, the United States spends more than $298 billion a year, including $133 billion in adult medical care and $156 billion in lost productivity, as a result of smoking.
Bowman said making the policy uniform all across campus eliminates any confusion about where one can and cannot smoke.

Despite the movement’s success, some students oppose the idea of a smoke-free campus. MU senior Jeffrey Militzer said he thinks it is ridiculous people cannot smoke on campus, let alone on city-owned streets.

“This looks like it’s a slippery slope when they ban it on campus, then they will go ahead and ban it downtown, then all of Columbia,” he said. “I’m not littering. If you can do it without trashing the place, there shouldn’t be a problem.”

Columbia City Council is currently considering a measure, proposed by First Ward councilwoman Ginny Chadwick, that would raise the legal age to buy tobacco in Columbia to 21. Additionally, the measure would ban electronic cigarettes indoors.

“Tobacco is the leading cause of death in the nation,” Chadwick said in a Sept. 24 Maneater article. “It’ll kill about 7,500 Columbians.”

Columbia might be new to the smoke-free environment, but Bowman said long-term benefits should be expected.

“If there is less smoking happening on campus, then less people will come to MU and smoke,” she said. “That’s better for people’s health and the campus as a whole.”

MU receives $2.3 million grant to study math education in elementary schools

By Roger McKinney

Thursday, October 16, 2014 at 10:37 am Comments (2)

A $2.3 million grant from the National Science Foundation will allow education researchers at the University of Missouri to determine whether an elementary teacher’s math expertise makes a difference in student learning.
The Missouri Department of Elementary and Secondary Education in 2012 approved the elementary mathematics specialist certification for teachers. The first group of teachers is just receiving the certification from the two-year program.

Researchers will study the teachers and their strategies in the classroom and also study student test scores during a four-year project. They will compare the results to those from classrooms of elementary teachers without the specialist certification.

“We’re looking at does it make a difference in their teaching strategies and student learning” to have the specialization, said research team leader Barbara Reys, curators’ professor and Lois Knowles Faculty Fellow in the MU College of Education.

“Most elementary teachers don’t feel they’re experts in mathematics” because they teach many subjects, Reys said.

Another team member, Corey Webel, assistant professor of mathematics education, said 100 teachers in Missouri are getting the elementary math specialist certification, including five from Columbia.

“We’re going to recruit as many as we can get” for the study, Webel said. “We just this week pitched it to all the participants.”

He said current research indicates that having elementary teachers with specialized knowledge in math relates to higher student achievement.

“A common misconception is that anybody can teach math at the elementary level,” Webel said.

Webel said researchers also don’t know how schools will use the elementary mathematics specialists. He said some might use them as a coach for other elementary teachers, while others will be used in classrooms.

Reys said student performance in math has steadily increased in the past 20 years in the United States but remains behind that of many other developed countries.

She said the specialist certification is a voluntary program.

“This study is to document the true impact of that expertise,” Reys said. “It’s not just about knowing mathematics. It’s about knowing the right kind of mathematics and how students understand and learn mathematics.”
USDA grant help researchers study elderberries
By SIDDARTH VODNALA

COLUMBIA, Mo. (AP) — Call it the ultimate elderberry taste test.

University of Missouri researchers will soon be comparing the flavors of six different types of elderberry juice — with names such as Wylde Wood, Ocoee, York and Adam's II — as a way to help elderberry producers make better juice and command higher prices, the Columbia Missourian reported (http://bit.ly/1tSz8O1).

The elderberry research is one of four Columbia projects awarded U.S. Department of Agriculture grants to research specialty crops.

Researchers will taste the juice from the different varieties and compare flavors. They will then sort the juices into groups such as "fruity floral" and "musty dusty."

Terry Durham, who cultivates elderberries at his Eridu Farms near Hartsburg, said elderberries have a wide variety of flavors that need to be identified.

"This is an excellent initiative because we're trying to develop selections that grow well and taste well, and this can help us with that," he said.

Michele Warmund, a professor in the Division of Plant Sciences at MU, said the research will help identify undesirable or "off" flavors in certain varieties.

The $18,912 awarded to fund elderberry research is distributed among four local projects focused on specialty crops including fruits, vegetables, tree nuts and nursery crops.

Here's a look at the other specialty crop grants:

Columbia Farmers Market was given $12,993 to educate kids about agriculture, soil and specialty crops, market manager Corrina Smith said. Activities will include demonstrations by community organizations such as the Columbia Center for Urban Agriculture and Community Montessori School, along with cooking demonstrations.

There will also be an expansion of current educational programs, Smith said. She cited a recent "soil-making" session to teach children how soil forms in nature.
"We want them to be interested in fresh produce and its journey from the seed to the table," Smith said. "We've been wanting to establish these activities for a long time. These funds will finally help get them off the ground."

Missouri River Communities Network received $28,638 to better connect specialty crop growers in the Missouri River valley with organizations that sell the crops such as farmers markets.

Information will be gathered from producers between St. Charles and Independence about their growing practices and willingness to collaborate with other producers on marketing, Steve Johnson, executive director of Missouri River Communities Network, said. There are also plans to produce a local food map for consumers, he said.

MU received an additional $53,128 to study how wineries and wine trails in other states combine marketing and production efforts. Peter Hofherr, assistant director of the McQuinn Center For Entrepreneurial Leadership at MU, said the idea is to determine whether a similar approach could work in Missouri wineries.

COLUMBIA MISSOURIAN

GUEST COMMENTARY: Potential risk of meningitis has simple solution
Friday, October 17, 2014 | 6:00 a.m. CDT
BY KRISTIN SOHL

There has been a lot of buzz lately about vaccines – but I would like to get Columbia citizens and Missourians statewide focused on one vaccine-preventable (and often misunderstood) disease in particular: meningitis.

Thanks to modern medicine, we can now nearly eliminate previously devastating diseases such as diphtheria, measles, mumps, rubella, polio and smallpox. Today, with a quick visit to our doctors, we can protect ourselves and our loved ones from dreadful diseases that our ancestors had to face.

Just last month, Andrea Jaime, a Georgetown University sophomore, died of meningitis. It is unknown how she contracted the disease, and now public health officials are working closely with Georgetown to vaccinate those Andrea was in close contact with to prevent even more cases and fatalities.
Last year, devastating meningitis outbreaks occurred on two other university campuses in the U.S. – Princeton University and the University of California, Santa Barbara.

More than 12 cases of meningitis were confirmed between the two schools. One student had both feet amputated because of the disease.

According to the Centers for Disease Control, 1,000 to 2,600 Americans contract meningitis annually, and one in 10 loses their life to this vaccine-preventable disease.

Many don’t realize how quickly meningitis can progress, starting with flu-like symptoms that escalate swiftly, leaving survivors with damage to the nervous system. Risks including hearing loss, epilepsy, limb loss, cognitive impairment and death.

The CDC consistently recommends vaccination as the best way to protect against meningitis. However, most people don't even know to ask their doctors about it.

The outbreaks at Princeton and UC Santa Barbara and the devastating death at Georgetown are unique because the strain of meningitis appearing in those cases was one that the current meningitis vaccination does not cover – serogroup B meningococcal disease.

An outbreak of this currently unpreventable strain of the disease, let alone multiple outbreaks across the U.S., is incredibly frightening – one that feels as mysterious and threatening as the current situation with Ebola.

Thankfully, and different from Ebola, new vaccinations are currently undergoing approval by the Food and Drug Administration to combat this strain of meningitis. Once new vaccines are approved, they should be made accessible to patients as soon as possible.

Here in Missouri, beginning with the 2015-16 school year, the state will require that college-bound students receive the meningitis vaccination before they can move into their dorms and apartments on campus.

This regulation is part of new legislation Gov. Jay Nixon passed in July in an attempt to protect Missouri citizens from devastating diseases for which we already have vaccines.

**Here in Columbia, where we have a large student population, that new law will be particularly beneficial for protecting our greater community.**
It is important that citizens from all walks of life — students, parents, grandparents, cousins, friends, roommates, everyone — are aware of the potential risk of meningitis and that they ask their physicians about the proactive steps they could take to quickly, easily and affordably minimize the possibility of contracting such a harmful disease.

It’s everyone’s responsibility.

*Kristin Sohl is a pediatrician with University of Missouri Healthcare.*

**COLUMBIA MISSOURIAN**

Despite lack of support, campaigns for teacher performance amendment continue

Thursday, October 16, 2014 | 7:33 p.m. CDT; updated 7:02 a.m. CDT, Friday, October 17, 2014

BY STEPHANIE EBBS

COLUMBIA — Although the organization sponsoring a schools-related amendment on the Nov. 4 ballot ended its campaign, the political life of the amendment isn’t over.

**Amendment 3** would change the way public school teachers are evaluated in Missouri and could require districts to get their evaluations approved by the state, which isn’t currently required.

The specific provisions in the amendment:

- Make teaching staff "at-will employees" with contracts no longer than three years in districts receiving state or local tax money.

- Require districts to develop a system of evaluating teachers and use those evaluations for personnel decisions such as promotions, dismissing staff and salary decisions. At least 50 percent of the evaluation would be based on "quantifiable student performance data" such as standardized test scores.

- Require individuals to prove that the district did not use the evaluation system described above in a lawsuit regarding personnel decisions.
• Protect the right to collective bargaining, except concerning the evaluation system established by the amendment.

The organization sponsoring the amendment, Teach Great, called off its campaign in September, citing that it was "not the time" to pursue the issue.

"I haven’t talked to one person out there who thinks this amendment is a great idea," said Mike Sherman, spokesman for the statewide campaign against the amendment.

That campaign, called Protect Our Local Schools, is the most prominent effort working against the amendment, combining the efforts of several teachers' organizations across the state to encourage Missourians to vote against Amendment 3. The Missouri National Education Association, Missouri State Teachers Association, and Missouri School Boards' Association are a few of the organizations involved.

Sherman said the campaign didn't even think about stopping when Teach Great shut down because the amendment is still on the ballot.

"We're running our campaign the way we set it up on day one and haven't deviated from that," he said.

Protect Our Local Schools has been collecting testimonials from educators and meeting with school boards to encourage them to vote on resolutions against the amendment. Sherman said there will be more activity in the weeks leading up to the election, including television advertisements.

A Columbia campaign, Vote NO on Amendment 3, organized this month to supplement the state campaign. The volunteer district leader for the campaign, Dave Overfelt, said a local campaign was established because Protect Our Local Schools didn't have enough money to buy local newspaper ads.

The Columbia School Board adopted a resolution against Amendment 3 at its Sept. 18 work session, joining 156 school districts that, as of Oct. 15, have spoken out against the amendment.

Former Superintendent Chris Belcher also wrote an editorial against the amendment in the Columbia Daily Tribune.
Overfelt said that after the Teach Great campaign shut down, people thought the issue was over and stopped donating to the efforts against the amendment.

He said that phone polls show that most people think the amendment is about teacher tenure but that it's really a broader issue of local control.

"The Teach Great campaign is going to come back in a different form more focused on tenure because that polls in their favor," he said.

Sherman also said he wouldn't be surprised if Teach Great came back, especially given that the campaign had strong financing.

"It was so shocking how they quit that nothing would shock me at this point," Sherman said.

**Previous attempts hit same issues**

Amendment 3 is the second time that Teach Great has put this issue forward but pulled back before the election.

The group put forward an initiative petition with similar language regarding tenure in 2012, but it did not appear on the ballot because signatures were never submitted to the Secretary of State's office. Teach Great campaign director Kate Casas said they just ran out of time because of when the petition was filed and decided to pursue the issue at a later date.

That petition was filed by attorney Marc Ellinger, who is Teach Great's attorney. He filed the petition for Amendment 3 last March.

**Ellinger has represented other initiatives supported by retired investor Rex Sinquefield, who has donated to many entities and political candidates throughout the state, including a recent $250,000 donation to Columbia Sen. Kurt Schaefer's campaign for state attorney general. With his wife, arts patron Jeanne Sinquefield, he funded the Mizzou New Music Initiative at MU.**
Several pieces of legislation similar to Amendment 3 have been filed in the past few
years, but Casas, who also works as state policy director for the Children’s Education
Alliance of Missouri, said they did not make progress in Jefferson City.

"The opposition is very powerful and opposed to evaluations," she said in August.

**Campaigns financed by big donors**

Despite the closure of Teach Great’s campaign, the organization had raised more than
three times as much as opposition efforts when it shut down. The group registered as a
political action committee, teachgreat.org, in 2012. Since then, a majority of its money
has come from a single source.

Rex Sinquefield made four donations as an individual totaling almost $1.7 million since
2012, according to reports from the Missouri Ethics Commission. Grow Missouri gave
another $95,000.

More than half of the money given to Teach Great since 2013 has been spent on
payments to National Petition Management, a company that collects signatures for
initiative petitions. Teach Great has not reported any contributions since April.

The campaign against the amendment has a shorter history but raised slightly more
money than Teach Great, totaling almost $1.8 million in contributions. Most of the
donations to Protect Our Local Schools have come from its member organizations
through its political action committee, called the Committee in Support of Public
Education.

The Missouri National Education Association has donated about $520,000 since the
beginning of April. The Missouri State Teachers Association and its legislative
committee have donated more than $390,000, not including donations from local
teachers association chapters.

There are two other committees registered against the amendment. The local campaign,
Vote NO on Amendment 3, has not reported any donations to the ethics commission,
but Overfelt said the group had about $350 as of Oct. 7. Another committee, No On 3,
reported $300 in contributions.
When the sexual assault prevention group Culture of Respect attended the Dartmouth Summit on Sexual Assault in July to promote its forthcoming website, the group went by a different name. The nonprofit passed out business cards and marketing all emblazoned with the phrase “No Means No.”

For the last two decades, that’s been the slogan of choice for sexual assault prevention efforts, and just a few months ago it seemed like a perfect fit for the new organization. But in the weeks leading up to No Means No’s official launch, the organization began having second thoughts.

“The swiftly evolving conversation about defining sexual assault signaled to us that we needed to reframe our name as something more positive,” said Allison Korman, the group’s executive director. “And it’s even possible that ‘No means no’ will be an outdated or irrelevant concept in 10 years. Students may not have even heard of the phrase by then.”

That’s because at a growing number of colleges, “No means no” is out, and “Yes means yes” is in. And it’s more than just revising an old slogan -- from coast to coast, colleges are rethinking how they define consent on their campuses.

Last month, California Governor Jerry Brown, a Democrat, signed legislation requiring colleges in the state to adopt sexual assault policies that shifted the burden of proof in
campus sexual assault cases from those accusing to the accused. Consent is now "an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity." The consent has to be "ongoing" throughout any sexual encounter.

On California campuses, consent is no longer a matter of not struggling or not saying no. If the student initiating the sexual encounter doesn’t receive an enthusiastic “yes,” either verbally or physically, then there is no consent. If the student is intoxicated, there is no consent.

California is the first state to make such a definition of consent law, but other states may soon follow suit. In New Hampshire and New Jersey, state legislators have introduced bills that would also link state funding for colleges to their definition of sexual assault, requiring the use of affirmative consent. In New York, Governor Andrew Cuomo, a Democrat, plans on proposing legislation that would require a uniform definition of consent similar to California’s to be used for all of the state’s private colleges.

Earlier this month, the State University of New York system adopted at all of its 64 campuses. The California State University System adopted its new definition months ago. Every Ivy League institution except Harvard University has adopted some form of affirmative consent. According to the National Center for Higher Education Risk Management, colleges and universities now use some type of affirmative consent definition in their sexual assault policies.

"There's quite a surge in support of a 'Yes means yes' formula," said Ada Meloy, general counsel for the American Council on Education. "It's certainly an ongoing movement, and is likely to be a generally positive thing. At the same time, it's not easy to develop a good definition of affirmative consent. We wouldn't want a one-size-fits-all approach for a variety of institutions."

**Moving From 'No Means No'**

Victims' rights advocates continue to praise the idea of affirmative consent and the momentum the concept has recently gained. Laura Dunn, executive director of SurvJustice, said campus sexual assault policies could even "fill in some of the holes" in criminal laws regarding consent. In many states, consent is still based on a victim
verbally or physically resisting, even as colleges within those states adopt affirmative consent policies.

Because colleges use a lesser burden of proof than criminal courts -- preponderance of evidence rather than beyond a reasonable doubt -- it makes sense to have a different definition of consent on campus, Dunn said, though she would ultimately like to see states adopt similar definitions at the criminal level as well. In order to comply with Title IX of the Education Amendments of 1972, colleges must investigate complaints of sexual assault, even if students decline to go to the police.

"Traditionally we've focused on a lack of consent as someone fighting off an attacker," Dunn said. "You looked for evidence of resistance. We only talked about what consent was not, which is not a very helpful paradigm. From the victims' side, it says we have to resist. But even looking at this from the perspective of someone being accused, the traditional definition is telling them that it's O.K. to do this until the victim says 'no.' That's not really a helpful definition for them either because it can really be too late at that point. With affirmative consent, it's simple. Consent is consent."

"No means no" hasn't always had such a negative connotation.

The Canadian Federation of Students popularized the phrase as part of a well-received, and still ongoing, sexual assault awareness campaign it launched in 1992. The group even owns the trademark in Canada, wielding it to stop the production of clothing and other merchandise that make light of the phrase (like a 2007 t-shirt that said "NO means have another drink"). The same year the campaign was launched, the Canadian government adopted affirmative consent as the country's legal standard, making "No means no" just a slogan, not a binding definition of consent.

The slogan has become well-known in the United States as well, though over time some college students began to use it as fodder for offensive jokes. A Yale University fraternity was suspended for five years in 2011 after its members marched around campus chanting "No Means Yes, Yes Means Anal" during. Just last week, a fraternity at Texas Tech University was stripped of its charter after painting the same phrase on signs during a party.
Unlike Canada, "No means no" is both a slogan and, in some states, the definition of consent. While there were efforts to create a uniform affirmative consent definition for all colleges during the recent reauthorization of the Violence Against Women Act, they were not successful. Meloy, of ACE, said she's supportive of affirmative consent but believes that the final definition of what that phrase means should be left up to individual campuses or college systems. "I think institutions' governing boards are the place for this to be discussed and considered," she said.

But it's that lack of a standard definition for affirmative consent that has led some colleges like Harvard not to adopt it.

Harvard's policy forbids what it calls "unwelcome conduct of a sexual nature," stating that "conduct is unwelcome if a person did not request or invite it and regarded the unrequested or uninvited conduct as undesirable or offensive." Earlier this week, 28 current and former Harvard law professors said the policy could deny due process to those who are accused and that its definition of unwanted conduct was too broad and vague. Student activists, meanwhile, said the definition doesn't go nearly far enough, and urged Harvard to change its definition to one of affirmative consent, saying in a petition that "the absence of a 'no' does not mean 'yes,' and our university policy should explicitly recognize that."

Mia Karvonides, the university's Title IX officer, said that Harvard uses a standard that is "consistent with the standard in all federal civil rights laws that apply in an education setting," and that even its peers in the Ivy League don't truly use an affirmative consent standard as they don't require a verbal yes at every turn. "The closest any college comes to a defined affirmative-consent approach is Antioch College," Karvonides said. "Under their policy, consent is given step by step at every point of engagement during an intimate encounter. You must verbally ask and verbally get an answer for every point of engagement. 'May I kiss you? May I undo your blouse?'"

'An Absurd Policy'

When the Antioch approach was introduced in 1991, it was widely mocked, including in a "Saturday Night Live" sketch, for what some saw as reducing a sexual encounter to a series of robotic yes and no questions. That critique of affirmative consent has been renewed in recent months as more colleges began to adopt similar policies. John
Banzhaf, a law professor at George Washington University, said, the idea that students would ask for permission at every point of a sexual encounter is "unreasonable." "It just isn't the way things work," Banzhaf said. "How would this work in practice? Suppose the guy asks, 'May I touch your breast?' Does that mean through her shirt? Over her bra? Does that mean he can touch her bare breast? Does it mean he can touch it with his hand or his lips? What if this all happens in succession? As things escalate, is he supposed to ask before each of the 20, 30, 40 steps? Nobody talks like that, not even lawyers."

Earlier this month, anti-sexism group UltraViolet tried to illustrate that affirmative consent can be natural and sexy by releasing an online video ad that mimicked retro pornography. In the purposefully grainy clip, a college-aged pizza delivery boy brings an unwanted pizza to a young woman's apartment. When the man apologizes for his mistake and refuses to force the pizza on her, she finds his seeking of consent attractive and one consensual act leads to another. As the couple moves from kissing, to lying on top of one another, to removing their clothing, they often pause to quickly -- breathlessly -- ask "Is this O.K.?

The Consent is Sexy Campaign offers campuses a series of posters making the same point, and some institutions have established campaigns of their own to explain why asking for consent is not a mood-killer.

Others are not so concerned with whether affirmative consent policies are awkward or un-sexy, but whether they're dangerous and unjust. In a position paper, the Foundation for Individual Rights in Education argued that there is "no practical, fair, or consistent" way for colleges to ensure an affirmative consent standard was followed. "It is impracticable for the government to require students to obtain affirmative consent at each stage of a physical encounter, and to later prove that attainment in a campus hearing," FIRE stated.

Furthermore, most campus policies state that yes does not mean yes if a student is intoxicated. At Cornell University, for example, a student cannot consent if he or she is highly intoxicated. At the same time, if the accused is also highly intoxicated, he or she cannot use intoxication as a defense. In the case of two intoxicated students, Cornell's rules place the responsibility on obtaining consent with whichever student is the "initiator of further sexual activity," saying that "the inability to perceive capacity does
not excuse the behavior of the person who begins the sexual interaction or tries to take it to another level."

"It's an absurd policy," Joe Cohn, FIRE's legislation and policy director, said. "How can the dean of the English department or a physics professor or whoever else is on the panel at a hearing know who was the initiator and who was not? What it really means is that if someone accuses another student of sexual assault in a situation like this, then the student who did not do the accusing is immediately considered to be the one responsible for initiating the conduct."

Banzhaf said switching to a "Yes means yes" standard that includes nonverbal cues only adds more ambiguity to obtaining consent. What colleges and states should actually focus on, he said, is removing any remaining ambiguity around "No means no."

"I don't think the problem is the definition of consent," Banzhaf said. "The problem is that too many guys simply don't take no as no. They're either drunk or stupid or have been conditioned by our society to believe that no means maybe and that if they keep pressing that no may turn into a yes. In most states still, for it to be rape, the guy must use force or threat of force or the woman must be totally incapacitated. That's what needs to change. We have to have a unified understanding of consent and that should simply be that no really means no."