

# Tuition lawsuit has potential

By Jennifer Tramm | Published 08/21/07 9:00pm

A recent court ruling against four UA students who challenged a 39.1-percent tuition increase four years ago has not sealed the issue's fate, a local attorney said.

Though the plaintiffs, four UA students, involved in *Kromko v. Arizona Board of Regents* lost their case at the Arizona Supreme Court, the court rejected two of the Arizona Board of Regents' claims, including one that said the Board's actions were beyond review.

While the Supreme Court affirmed that the Arizona Legislature was immune from its appropriations decisions, it also stated that ABOR was not.

According to the decision, Arizona state law "does not immunize the Board from suit for equitable and declaratory relief, ... or from suit for restitution of unconstitutionally collected tuition."

In the suit, the students said that the steep increase in tuition violated the state constitution's provision declaring that instruction furnished by the state "shall be as nearly free as possible."

ABOR rejected this on the basis of internal policy, which mandates that resident undergraduate tuition be no higher than "the top of the lower one-third of rates set by all other states."

"I think the door is still open to challenges," said Paul Gattone, one of the attorneys who defended the students, "but we'd have to use a different strategy."

The next time ABOR decides to raise tuition, the plaintiffs could file suit and follow Board procedures, Gattone said.

"It is an issue that continues to be important around the state," he said. "As tuition gets more and more expensive, fewer people can gain access."

Gattone argued that although financial aid exists for low-income students, universities take a part of that tuition and give it to other students as tuition gets raised.

Thus, while low-and high-income students gain access, middle-income students often must choose between going into debt or not going into higher education at all, he said.

Dick Roberts, UA budget director, said he felt the ruling was just.

"The court, in my opinion, made exactly the correct decision," he said.

The students involved in the *Kromko* case did not claim that the calculation of tuition was wrong, Roberts said, and they also did not suggest an appropriate amount.

When tuition was raised by approximately \$1,000 in the 2003-04 school year, the UA was the lowest on a list of tuition rates for peer institutions, he added.

"That base was amazingly cheap," he said. "We're nowhere near the top of the bottom one-third now."

The UA was at "an equilibrium" until the state pulled \$70 million in funding over two years, he

added.

To maintain that balance, the university would have to force some students to withdraw enrollment, he said.

As the amount of state funds directed towards education has decreased, the university has had to make up the difference, said President Robert Shelton.

Despite that trade off, he added, there are important points to be made on the issue. As tuition has gone up, the average debt at graduation has not, he said.

It is also a mistake to equate low tuition with access to the university because there are alternatives available to lower-income students, Shelton said.

""We are still a very low-tuition state,"" Shelton said, though he acknowledged that this fact does not help when a student cannot find the money to pay tuition.

""In the end, it's almost a philosophical question,"" he said, namely of how much taxpayers should pay for a student's education and how much the student should pay, with the state reluctant to raise taxes.

Gattone had a different question to pose: Did tuition have to be raised at all? He said he state should have raised funding to universities to prevent the need to raise tuition.

""Our state legislature is passing laws on immigration and neglecting higher education. It is not just important to the students,"" Gattone said. ""Higher education is critically important to us as a society.""

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