White Paper: Collaboration between Fraternal Organizations and Colleges and Universities in Addressing Student Conduct Issues

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The author wishes to thank the Fraternity Executives Association for the opportunity to explore this important issue, collaboration between staff from inter/national fraternity headquarters, chapter alumni leadership and administrators at colleges and universities in addressing student conduct by members of a chapter. As a student member of a national fraternity and a student affairs administrator for over 30 years, the author has personally experienced incredibly positive relations with inter/national fraternity headquarters, but has been extremely frustrated by the lack of collaboration and support from inter/national fraternity headquarters staff in other situations. While conducting research for this paper, student conduct officers, fraternity/sorority advisors, and senior student affairs officers shared stories of positive and negative experiences with inter/national fraternity headquarters. Not surprisingly inter/national headquarters staff expressed positive and negative experiences when working with colleges and universities.

This paper examines issues that highlight the need for collaboration and the difficulty in achieving it. A review of the philosophy regarding student conduct at colleges and universities and key legal issues and court decisions are explored. The author shares findings from dialogue with student conduct officers, fraternity/sorority advisors, senior student affairs officers, higher education legal and risk management specialists, and inter/national headquarters staff. The paper concludes with recommended procedures for collaboration between college and
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university administrators and inter/national fraternity headquarters staff in addressing inappropriate behavior by undergraduate chapter members.

Issues

Not a month goes by without a headline of inappropriate behavior by members of an undergraduate chapter. Some headlines from August/September 2011 include: “UT Fraternity Accused of Live Sex Shows, Hazing” (Kreytak, 2011), “University of South Carolina Suspends Fraternity Rush” (Hoover, 2011), “Princeton to Ban Freshman Affiliation with Fraternities, Sororities as of fall 2012” (Staff, 2011), and “After Student’s Death, Cornell Moves to End Hazing” (Associated Press, 2011). As stated in an August 26, 2011 article in The Chronicle of Higher Education, colleges and universities have,

a perpetual but perhaps futile goal: to preserve the best and prevent the worst of the Greek system. Of course, fraternities aspire to ideals of leadership and service, and often achieve them. But then, too often, initiates get hurt – or die (Lipka, 2011).

Colleges and universities face greater expectations from parents and the public for the safety and security of its students than ever before. The public perception is that college and university campuses have become violent and dangerous places. According to Sloan and Fischer (2010), because colleges and universities do not adequately address campus safety and security, they have failed in their duty to protect students from dangerous conditions. Fraternity houses create special difficulties for colleges and universities and inter/national fraternity
headquarters. Often these houses are owned or leased by a local housing corporation and may be off campus.

Both colleges and universities and inter/national fraternity headquarters have limited authority and ability to change the behavior of a chapter that does not want to change. Kappa Alpha Order headquarters discovered how difficult it can be when a local fraternity chapter refused to accept the suspension of its charter from the inter/national headquarters and formed a local fraternity in the same house (Kreytak, 2011). Colleges and universities experience similar frustrations when a chapter’s recognition is suspended by the college or university and the chapter continues to operate in the community with the support of inter/national headquarters.

It is situations like these that create greater tension between inter/national fraternity headquarters and colleges and universities. However, colleges and universities are not without blame. It would not be uncommon for a college or university senior administrator to voice his or her strong displeasure with behavior by fraternity members, especially when an injury or death is involved. Lower level administrators will be pressed to find a way through existing conduct processes to meet the senior administrator’s expectations. The college or university will feel it necessary to make a public statement condemning the acts and indicate that strong action will be taken against those responsible.

Trust can be difficult when the stakes are high. When there is a serious injury or a death a fraternity, it is very difficult for colleges and universities and inter/national fraternity headquarters to trust each other. In the opinion of the
author, legal counsels for colleges and universities and inter/national fraternity headquarters too quickly insert themselves in the situation. The role of legal counsel is to protect the entity they represent. It is natural that legal counsels for colleges and universities do not want staff sharing information with inter/national fraternity headquarters that might somehow harm the college or university in a lawsuit. Legal counsels for inter/national fraternity headquarters similarly advise their clients.

The role of the alumni chapter advisor and housing corporation cannot be overlooked. It has been the author’s experience that chapter advisors who are dedicated to the ideals and values of the national fraternity and understand the place of fraternities and sororities in the education of young adults are interested in collaborating with colleges and universities. In turn, these institutions are interested and willing to collaborate with and support the chapter advisors. On the other hand, some chapter advisors are absent, meaning they rarely visit the chapter and advise the chapter leadership, or are not interested in working with the college or university and, perhaps, not the inter/national headquarters.

**History of Student Conduct**

**Colonial College**

Much has changed since the founding of the colonial college. The first colleges in America (Harvard, Yale, The College of William and Mary, Princeton, etc.) were established to provide training of affluent young (as young as 12 years old) males for the clergy. Live-in tutors tightly controlled student behavior acting in place of the parent with the president having final say on a course of action.
(Brubacher & Rudy, 1976). During the Colonial period, the first Greek letter student organization at a college in America, Phi Beta Kappa, was founded at the College of William and Mary (Binder, 2003, p. 32).

**The Changing Student**

The Morrill Act of 1862 opened a college education to the masses with the founding of land grant colleges to provide a more career-oriented education in agriculture and mechanics (engineering). The second Morrill Act of 1890 established historically Black colleges and universities, mostly across the south. The Servicemen’s Readjustment Act of 1944 (GI Bill) brought an older student to campus, one that expected to be treated as an adult.

It was the counter culture movement of the 1960’s that changed how students at colleges and universities were viewed and treated. The youth of that era challenged traditional authority and materialism while advocating civil rights and women’s rights, and an end to America’s involvement in Vietnam. Students protested these issues on college campuses across the country and in the community. Colleges and universities took disciplinary action, sometimes harsh action, against students participating in protests. In response, students challenged the college’s actions in court. In many cases, the courts found in favor of the students and established reasonable due process considerations in student conduct cases. The days of a college or university administrator summarily deciding the fate of students without providing due process were gone. No longer could administrators make decisions and claim they were acting in place of the parent, *in loco parentis*. 
Bystander Era

Bickel and Lake (1999) characterize the period of the 1970’s and 1980’s as the Bystander era in higher education. It was recognized that students were no longer under the control of their parents, but were not yet mature adults. Based on court decisions at that time, colleges and universities adopted a “hands off” approach to dealing with student organizations. With this approach, colleges and universities operated in the role of bystanders with no legal duty to protect students. Four court cases – Bradshaw v. Rawlings (1979), Baldwin v. Zoradi (1981), Beach v. University of Utah (1986), and Rabel v. Illinois Wesleyan University (1987) - represent the no-duty philosophy of the courts during this era.

In Bradshaw v. Rawlings (1979), a student was seriously injured while riding as a passenger in a vehicle driven by an intoxicated fellow student. The students had been at a sophomore class event at an off campus park. Fliers for the event were copied on college duplicating equipment and posted around campus. The class president, although underage, purchased at least six kegs of beer from a local distributor for the event. The Third Circuit in announcing its findings stated, Our beginning point is a recognition that the modern American college is not an insurer of the safety of its students. Whatever may have been its responsibility in an earlier era, the authoritarian role of today’s college administrations has been notably diluted in recent decades. Trustees, administrators, and faculties have been required to
yield to the expanding rights and privileges of their students. By constitutional amendment, written and unwritten law, and through the evolution of new customs, rights formerly possessed by college administrations have been transferred to students.

Injuries suffered in a car wreck during a speeding contest involving underage drinking were the impetus for Baldwin v. Zoradi (1981). Baldwin asserted that the university failed to enforce its own rules prohibiting the consumption of alcohol in university residence halls; thereby creating an unsafe condition. In other words, the university had a duty to prevent students from harming themselves by consuming alcohol in the residence halls then getting in cars to drive under the influence of alcohol. The appellate court found that “there was a lack of close connection between the failure of the trustees and dormitory advisors to control on-campus drinking and the speed contest.”

In Beach v. University of Utah (1986), a student wandered off from the group on a required field trip, fell off a cliff and was rendered quadriplegic. The student had been drinking alcohol along with other students and the faculty advisor on the trip immediately prior to falling off the cliff. Citing the Bradshaw v. Rawlings (1979) and the Baldwin v. Zoradi (1981) court decisions, the Beach court stated, “Not only are students such as Beach adults, but law and society have increasingly come to recognize their status as such in the past decade or two. Nowhere is this than in the relations between students and institutions of higher education.” Thus, the University did not have a duty of care for the student.
As part of a fraternity “tradition,” a fraternity member abducted a female student from a residence hall lobby, placed her over his shoulders, and began to run through a gauntlet of fraternity brothers. While running the student fell resulting in a crushed skull for the female he was carrying. The female student was left with permanent brain injuries. The fraternity member had consumed alcohol at a fraternity party immediately prior to entering the residence hall and grabbing the female student. The injured student filed suit against the fraternity member, the fraternity, and the university. The fraternity member and the fraternity settled out of court. The court determined that “there was no duty owed to the plaintiff by the university and no issue as to the negligence of the university” (*Rabel v. Illinois Wesleyan University*, 1987).

**Duty Era**

Since the mid 1980’s the courts have steadily eroded the legal concept of no duty to care for the student and replaced it with a “shared responsibility and a balancing of university authority and student freedom” (Bickel & Lake, 1999, p. 105). Expanded liability for colleges and universities has been defined in court decisions when dangerous conditions exist, when dangerous practices are common, and when dangerous activities occur without attempts to minimize risk.

The Delaware Supreme Court decision in *Furek v. Delaware* (1991) illustrated the new era of shared responsibility. Furek was a fraternity pledge at the University of Delaware. During a “hell night” activity, a fraternity member poured oven cleaner over Furek which resulted in chemical burns and permanent scarring. In its review of lower court decisions, the Delaware Supreme Court stated,
While we acknowledge the apparent weight of decisional authority that there is no duty on the part of a college or university to control its students based merely on the university-student relationship, where there is direct university involvement in, and knowledge of, certain dangerous practices of its students, the university cannot abandon its residual duty of control (Furek v. Delaware, 1991, @ 520).

The lesson for higher education in Furek was that universities should take all reasonable steps to prevent an incident from occurring; but students also have some responsibility for their behavior.

However, the court in Furek v. Delaware (1999) determined that the national fraternity was not responsible for the actions of a fraternity member in part because the national fraternity did not have control over the day-to-day activities of a local chapter. Courts took similar positions in Walker v. Phi Beta Sigma Fraternity (1997) and Jones v. Kappa Alpha Order (1997). In contrast, the court in Ballou v. Sigma Nu (1986) determined that the national fraternity did have a duty to care for pledges participating in an initiation ceremony. In reaching its decision the court noted that Ballou was required to participate in initiation activities to become a member of Sigma Nu; that the active chapter members created a hazardous situation by forcing Ballou to consume large amounts of alcohol in a short period of time; that the active chapter members failed to recognize Ballou’s condition and seek medical treatment; and that the active chapter members were operating within the scope of authority granted to them by the national fraternity.
Another case in which the court determined the university had a duty to protect the student is *Knoll v. Board of Regents of the University of Nebraska* (1999). Knoll, a fraternity pledge, was “kidnapped” by fraternity brothers from a university building, taken to the fraternity house, forced to consume large amounts of alcohol, and handcuffed to a pipe in a house bathroom. Knoll broke free and fell three stories attempting to escape from the fraternity house. He suffered serious injuries from the fall. The Nebraska Supreme Court determined, “...the University owes a landowner-invitee duty to students to take reasonable steps to protect against foreseeable acts of hazing, including student abduction on the University's property, and the harm that naturally flows therefrom.”

The 1980’s and 1990’s were also marked by a change in the relationship between students, parents and the university. An age of consumerism developed as institutions increased tuition and fees charged students to make up for declining financial support from state and federal governments. Parents had ever-increasing expectations for institutions of higher education in part based on the feeling they could demand what they were paying for. Parents were saying that they expected the university to provide for the safety of their son/daughter and take whatever means necessary to prevent harm. The nature of consumerism implied a contract between the student and the university. While contractual relationships had been used by the courts to describe the relationship between private institutions and students, this was a new adaptation to public universities (Frank, Janosik & Paterson, in press).
A tragic rape and murder of a student in her residence hall room at Lehigh University in 1986 forever changed how colleges view their responsibility to care for its students. The killer entered the residence hall and gained access to the student’s room through three propped-open doors. The parents of the student, Howard and Jeanne Clery stated,

*We learned from the outcome of our lawsuit against Lehigh that campus administrators have a duty to protect their students from crime. In addition, we became convinced that such litigation may be the single most effective way to pressure academic officialdom to: 1) recognize campus violence as the threat that it has become; and, 2) do something about it* (Clery & Clery, 2011).

The Clery’s went on to found Security On Campus, “a not-for-profit organization dedicated to the prevention of criminal violence at colleges and to assisting campus victim nationwide” (Clery & Clery, 2011). Security On Campus is most known for working with Congress to pass the Crime Awareness and Campus Security Act of 1990, which required colleges and universities to report crime statistics. Security on Campus continues to push for legislation to address violence at colleges and universities.

**Post Virginia Tech Era**

“The ideal university is an institution of social harmony built on charitable foundations that works to enhance the intellectual abilities and professional capabilities of all members of a collaborative community” (Ferraro & McHugh, 2010,
Yet, on April 16, 2007 that belief was shattered as a single student attacker killed 32 members of the Virginia Tech community, including 27 students (p.16). This tragedy resulted in federal and state mandates that place even greater responsibility on the university to protect its students from harm.

The Higher Education Opportunity Act of 2008 amended annual security reporting requirements of the Clery Act that requires institutions to:

- Report their policies regarding emergency response and evacuation procedures;
- Immediately notify campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health and safety of students or staff, unless the notification at that time will compromise efforts to contain the emergency;
- Publicize emergency response and evacuation procedures on an annual basis to students and staff; and
- Test emergency response and evacuation procedures annually

Some states approved laws that established additional campus safety requirements. For example, the Illinois Legislature approved the Campus Security Enhancement Act of 2008. This Act requires universities to develop and implement an all hazards campus emergency plan that coordinates response to a crisis with local, state and federal emergency response agencies. A campus violence prevention plan and a campus threat assessment team are also requirements of the Act.

Clearly, there is an expectation from parents and society that universities should and can prevent violent acts on their campuses and thus insure the safety of its
students. In their book, *The Dark Side of the Ivory Tower: Campus Crime as a Social Problem*, John Sloan and Bonnie Fischer (2010), posit that messages spread by mass media have led to public acceptance of campus crime as a social problem and a norm on university campuses. They suggest that the public believes universities are more violent and dangerous places today. The public perceives a “party culture” on campuses that encourages alcohol abuse and leads to student deaths. By permitting this “party culture” to exist, the public believes that universities have failed in their legal duty to protect students from criminal victimization.

New pressures, regulatory and media, have been applied to universities to act swiftly in notifying the campus of emergencies and to be aggressive in protecting the safety of students, faculty, staff and visitors. With the prevalence of cell phone and other electronic devices today, word of an incident often spreads before emergency responders have had a chance to investigate the incident. These informal communications shape public perception often making it difficult to address incidents in a logical step by step approach.

**Philosophy of Student Conduct**

The underpinnings of universities’ approach to student conduct can be found in student affairs’ foundation document, *The Student Personnel Point of View* (American Council on Education, 1937). Among other emphases, *The Student Personnel Point of View* strongly advocated for the importance of educating the whole student and student affairs role in providing this education. This emphasis remains true today as student affairs administrators who “advocate for the common good and champion the rights of the individual; encourage intelligent risk taking
and set limits on behavior; encourage independent thought and teach interdependent behavior” (National Association of Student Personnel Administrators, 1987, p. 19).

Perhaps the philosophical foundation for student conduct can best be described by the mission of the Association for Student Judicial Affairs (ASJA), the first professional association dedicated solely to student conduct officers and those working in related areas of higher education and the law:

The mission of this Association shall be to facilitate the integration of student development concepts with principles of judicial practice in a post-secondary educational setting . . . (ASJA, 1987, p. I).

Student conduct administrators understand that interpersonal and intrapersonal changes occur during the time a student is enrolled in college and there are many factors that influence a student’s intellectual and ethical development during this time (Evans, Forney, & Guido-DiBrito, 1998). Thus, the purpose of the student conduct process is to help the student gain a greater self-understanding and accept responsibility for their actions (Waryold and Lancaster, 2008).

A recent movement in student conduct is the application of social justice principles in the conduct process. Jennifer Meyer Schrage and Nancy Geist Giacomini in their book Reframing Campus Conflict: Student Conduct Practice through a Social Justice Lens (2009), suggest a spectrum of resolution options to conduct issues on university campuses. The spectrum ranges from informal to formal options. At the informal end of the spectrum are the options of no conflict management followed by dialogue/debate/discussion, and conflict coaching. These
options require little to no structure or administrative involvement. The involved parties control the process and outcome. Moving along the spectrum, facilitated dialogue, mediation, restorative practices, and shuttle diplomacy are structure options where the parties control the outcome and administrators are involved as third-party facilitators. At the formal end of the spectrum are adjudication (informal) and adjudication (formal hearing). In adjudication the outcome is controlled by administrators or a hearing panel through a defined process. This spectrum suggests that student conduct officers at universities have several tools to address inappropriate behavior by students and that a formal hearing is not always necessary or the best method.

**Freedom of Association**

Do fraternities have a legal right to exist on university campuses? The answer to the question can be found in a strange association between fraternities and radical groups of the 1960's. With the turbulent activities on campuses in the 1960's as a background, Central Connecticut State University sought to deny the recognition of the Students for a Democratic Society (SDS) as a student organization on its campus. SDS chapters on other campuses were widely involved in civil disobedience which sometimes led to vandalism and seizure of buildings. The U.S. Supreme Court in *Healy v. James* (1972) stated that “the College, acting here as the instrumentality of the state, may not restrict speech or association simply because it finds the views expressed by any group to be abhorrent” (at 187-188). The Court distinguished the importance in protecting the advocacy of ideas, but not lawless actions (Burke, 2003, p. 253).
Freedom of association is not a one-size fits all right. Rather, there are three primary distinctions of freedom of association under the First Amendment. The right to intimate association is best characterized by a family. This type of association is recognized as the strongest freedom of association. Recognizing the strength of family bonds, government attempts to avoid actions that would interfere with family bonds. Expressive association is the second strongest freedom of association. The right to form groups around common ideas and beliefs to express those beliefs characterizes expressive association. These groups range from religious organizations to Mothers Against Drunk Driving to Occupy Wall Street. Social association is considered the weakest of these forms of protected speech. Social organizations are generally thought of as groups that form for no real purpose than having fun (Lukianoff, 2011).

The Higher Education Amendments of 1998, as adopted by Congress, set out to address private colleges’ ability to restrict fraternities from existing on their campuses. The “Sense of Congress” sought to require private colleges to recognize and respect the constitutional rights of their students. It was commonly believed that the Congressional action was intended to protect fraternities and their members (Burke, 2003, p.269).

In his commentary in the *Huffington Post*, Lukianoff (2011) suggests that fraternities might well not have association rights because they are viewed as social organizations. He cites the court decision in *Chi Iota Colony of Alpha Epsilon Pi Fraternity v. City University of New York* (2007) in which the U.S. Court of Appeals, Second Circuit, characterized the fraternity as a social organization with limited
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associational rights and allowed the university to deny recognition to the fraternity. Lukianoff also cites at Third Circuit Court decision in which the court found that the fraternity did not have an expressive association claim (*Pi Lambda Phi Fraternity Inc. v. University of Pittsburgh*, 2000). In its decision, the Court stated, “While the intentional organization of Pi Lambda Phi has admirable history that includes being the country’s first non-sectarian fraternity, there is no substantial evidence in the record that the University chapter of Pi Lambda has done anything to actively pursue the ideals underlying this stance.”

In 2010, the U.S. Supreme Court considered the right of universities to require organizations requesting recognition by the university to “allow any student to participate, become a member, or seek leadership positions in the organization, regardless of [her] status or beliefs” (as cited in Pavela, July 9, 2010). The court case, *Christian Legal Society v. Martinez* (2010), followed a series of lawsuits that questioned common practices at universities to require recognized student organizations to abide by institutional non-discrimination policies. The Supreme Court concluded that the so-called all-comers policy at Hastings College of Law was “a reasonable viewpoint – neutral condition on access to the student-organization forum.” The Court further noted that “substantial alternatives for expression” exist even without registered student organization status.

Citing *Christian Legal Society v. Martinez* (2010), the Ninth Circuit Court in *Alpha Delta v. Reed* (2011) ruled that San Diego State University could refuse recognition to a Christian fraternity and sorority who asked that members share the group’s faith (Creely, 2011). The court noted that it could not find a “material
distinction between San Diego State’s student organization program and the student organization program in *Christian Legal Society*” (as cited in Creely, 2011).

**Due Process**

In very simple terms, due process means what procedures (process) are students entitled (due) when alleged to have committed a violation of the institution’s student conduct code. Due process has two parts – procedural due process (fair procedure) and substantive due process (fair outcome) (Pavela, January 29, 2010). While the US Supreme Court has never issued a decision that due process is a requirement of colleges, lower court decisions have been commonly believed to establish reasonable due process standards for colleges.

The Fifth Circuit decision in *Dixon v. Alabama State Board of Education* (1961), is the case that first defined expectations for due process in college student conduct cases. The court established that a student was entitled to a notice of the charges and an opportunity to be heard. More specifically, the court stated, “The notice should contain a statement of the specific charges and grounds which, if proven, would justify expulsion.” The court is careful to not suggest that a “full-dress judicial hearing” is necessary for conduct proceedings. However, the court defined the elements it believed were appropriate for a conduct proceeding to include providing the accused student with the names of witnesses against him[or her], a report of the facts, and an opportunity to present a defense to an administrator or board.

In *Esteban v. Central Missouri State College* (1969), the Eighth Circuit Court of Appeals upheld a college's authority to promulgate rules, expect students to follow
those rules, appropriately discipline students, and protect the college and its property. In terms of procedural due process, the court determined that a college should provide:

- adequate notice, definite charge, and a hearing with opportunity to present one’s own side of the case and with all necessary protective measures;
- that school regulations are not to be measured by the standards which prevail for the criminal law and for criminal procedure;
- and that the courts should interfere only where there is a clear case of constitutional infringement (at 1090).

The courts have held that due process in educational settings is not a rigidly defined process (Goss v. Lopez, 1975 and Gorman v. University of Rhode Island, 1988). The courts recognize that institutions are structured differently and that a simple noise violation committed by a student is differently from an assault with injury. Specifically, the First Circuit Court in Gorman stated, “Due process, which may be said to mean fair procedure, is not a fixed or rigid concept, but, rather, is a flexible standard which varies depending upon the nature of the interest affected, and the circumstances of the deprivation” (at 13). Thus, the nature and amount of due process afforded a student is dependent upon the potential for a more severe sanction.

The introduction of attorneys in the student conduct process is often a point of contention between a student’s attorney and the college. Attorneys often are not familiar with student conduct procedures and attempt to impose criminal trial procedures into the student conduct process. In Gabrilowitz v. Newman (1978), the
First Circuit ruled that students have the right to have an attorney at student conduct proceedings to serve as an advisor, but not actively participate in the proceeding by presenting a defense for the student or cross-examining witnesses (Carletta, 1998, p. 44). Having an attorney advise a student in a conduct proceeding is most appropriate when the student faces criminal charges resulting from the same incident.

**Due Process at Private Institutions**

In discussing the distinction between public institutions and private institutions under the law, Peter Lake (2011), a professor at Stetson College of Law, stated, “Actually the public/private is a complex and related set of distinctions and, in many ways, they are lawyers’ distinction” (p. 76). That said, the basic legal principle is that public institutions are subject to the authority of the government that created them, most often the state, whereas private institutions are protected from governmental control. In student conduct cases, courts have applied contract theory to support the need for due process. In *Carr v. St. John’s University* (1962), the court stated, “…there is an implied contract between the student and the university …The university cannot take the student’s money, allow him to remain and waste his time in whole or in part … and then arbitrarily expel him” (at 633). Similarly, the New York Supreme Court ruled in *Kwiatowski v. Ithaca College* (1975) that an institution’s conduct charges against a student “…must be predicated on procedures which are fair and reasonable and which lend themselves to reliable determination” (at 45). As a matter of practice, private institutions provide due
process rights to students in conduct proceedings that mirror those found at public institutions.

**Student Conduct Processes**

*A 21st Century Model Student Conduct Code* developed by Stoner and Lowery (2004), is commonly held as the model that institutions should follow in developing or revising their codes of student conduct and student conduct procedures. The code is based on “generally prevailing law and practice” (p. 16). Stoner and Lowery emphasize that student conduct proceedings are not criminal proceedings and institutions should avoid using any language in the code that suggest otherwise. The model code is not intended to be adopted by institutions without revision. In drafting the model code, Stoner and Lowery recognized that institutional culture and practice impact the student conduct practice on that campus. Instead, the model code serves as a “checklist” when revising a campus code of conduct and in training hearing boards and hearing officers. They remind us that “the institution will want to remember the basic student affairs precept that it is important to treat all students with equal care, concern, honor, fairness, and dignity” (p. 15).

Thomas R. Baker (2005) discusses complaint resolution models commonly used by colleges and universities to address student conduct issues in *Judicial Complaint Resolution Models for Higher Education: An Administrator’s Reference Guide*. As Baker states, resolving student conduct complaints involves three simple concepts:

1. Determining what happened
2. Determining whether one or more institutional rules were violated
3. Determining whether disciplinary sanctions should be imposed.
However, the task of making the determinations identified in these concepts become complex as colleges and universities insert their culture of decentralization and separation of duties into resolving student conduct complaints. The complaint resolution process may be assigned to one institutional representative, an institutional committee or board, or involve a series of individuals and boards. Depending upon the size and complexity of the college or university, it is common to employ division of labor to varying extents. For example, one person may conduct an initial investigation of the incident to determine the facts. This information would be shared with the student conduct office which would assign a staff member to determine if there is sufficient information to initiate charges against a student for violations of the code of student conduct and, perhaps, initially attempt to resolve the charges informally. If the charges cannot be resolved informally, the case may be sent to hearing panel to determine if a violation occurred and appropriate sanctions if a violation was found. Another staff member, usually at a higher administrative level (Dean of Students or Vice President for Student Affairs), may hear the appeal, if the student chooses to file one or a board might hear the appeal.

At small colleges, one person may conduct the investigation; determine if there is sufficient information to issue charges; conduct both informal and formal hearing processes; and determine if a violation occurred and appropriate sanction if a violation was found. An appeal would be heard by another person or a board. Baker describes eight models for resolving student conduct complaints that provide
various degrees of formality. The models may be adapted by colleges and universities to fit institutional culture and practice.

Stoner and Lowery’s (2004) model code of conduct and Baker’s (2005) judicial (conduct) complaint resolution models are intended for use for both individuals and student organizations. In student organization cases, the organization president serves as its representative. Typically, there is some type of investigation prior to addressing the concerns through an informal or formal process. Sanctions taken against student organizations may be similar to those issued individual students (censure, probation, suspension, expulsion) but have different implications. When a student organization is suspended, the student organization loses its recognition from the college or university and cannot operate as a student organization on campus or represent itself as an organization affiliated with the college or university. However, colleges and universities lack the authority to prevent members from affiliating with each other or organizing as a group not affiliated with the college or university. The conditions of an expulsion are similar except that under an expulsion the organization will not be permitted to affiliate with the college or university at any time in the future. With a suspension, the organization may request to regain its affiliated status with the college or university sometime in the future. Educational sanctions may also be imposed.

Baker’s (2005) judicial (conduct) complaint resolution models are presented on the following pages. Baker shows in all eight models the use of informal review for an appeal. An informal review means a college or university would review the information from the original hearing and make a determination on whether or not
to uphold that decision, modify the sanction(s), or find insufficient evidence to
support a finding of a violation. Many conduct resolution processes have a formal
appeal that is heard by a board. However, even these formal appeals have
limitations. Formal appeals are not de novo hearings, but are reviews to assure the
process utilized to reach the original finding or decision was fundamentally fair.
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| **One-Stage**  
Unstructured Model  
(with Appeal Option)  |
| **One-Stage**  
Structured Model  
(with Appeal Option)  |
| **Complaint** |
| **Complaint**  
(No pre-adjudication investigation) |
| **Investigation & Unstructured Adjudication by Administrator(s)** |
| **Structured Adjudication** |
| *(Optional)*  
**Appeal:**  
Informal Review |
| *(Optional)*  
**Appeal:**  
Informal Review |

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Pre-Adjudication Investigation & Negotiation |
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Unstructured Adjudication by Officer or Board |
| **Structured Adjudication by Officer or Board** |
| **Appeal:**  
Informal Review |
| **Appeal:**  
Informal Review |
Judicial Complaint Resolution Models

**Model 5**

**Progressive Model**

- Complaint
- Investigation & Unstructured Adjudication by Investigator
- Structured Adjudication by Officer or Board (if Accused Student Elects)
- Appeal: Informal Review

**Model 6**

**Respondent's Choice Model**

- Complaint
- Accused Student Chooses:
  - A. Unstructured Adjudication by Initial Investigator
  - OR:
  - B. Structured Adjudication by Officer or Board
- Appeal: Informal Review

**Model 7**

**Dispute Model**

- Complaint
- Investigation & Unstructured Adjudication by Investigator If Accused Student Does NOT Dispute Allegations
- If Accused Student DOES Dispute Allegations:
  - Structured Adjudication by Officer or Board
- Appeal: Informal Review

**Model 8**

**Hybrid Progressive Dispute Model**

- Complaint
- Investigation & Unstructured Adjudication by Investigator If Accused Student Does NOT Dispute Allegations
- If Complaint Disputed OR If Accused Student Elects:
  - Structured Adjudication by Officer or Board
- Appeal: Informal Review

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A recent Office of Civil Rights (OCR) “Dear Colleague Letter” questions university practices for addressing sexual violence and prescribes expectations for universities to address sexual harassment, including sexual violence, under Title IX. Among the expectations, “If a school [university] knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects” (Ali, 2011, p. 4). OCR further indicates that universities must address sexual harassment complaints regardless if the conduct occurred on or off campus. Universities must conduct impartial investigations of allegations of sexual harassment and should not wait for the conclusion of police investigations or criminal investigations before proceeding with their own investigation. Universities must provide appropriate due process considerations in a conduct process to both the alleged perpetrator and alleged victim. Thus, individuals and student organizations may be subject to procedures including investigations and immediate action by the college or university to stop the harassment, prevent it from reoccurring, and address its impact on individuals and the campus.

The Association of Title IX Administrators has developed a model grievance process to comply with the Office of Civil Rights expectations for addressing sexual harassment. The procedure is outlined on the following page.
Collaboration in Addressing Student Conduct

ACTUAL NOTICE
[May or may not come from a formal complaint.]

Assess Interim Suspension
↓
Initial Remedial Actions
↓
Assess Duty to Warn

Preliminary Investigation
↓
Gatekeeper Determines
No Reasonable Cause to
Believe Policy Violated
↓
Gatekeeper Determination there is Reasonable
Cause to Believe Specific Policy Violated
(and Which Ones)

Investigation Ends
↓
Notice of Investigation
↓
Notice of Charge
↓
Opportunity to Resolve
Through Informal
Administrative Resolution

Share Finding with
Supervisor/Coordinator
↓
Finding
(Based on a Preponderance of Evidence)
↓
Investigator Presentation of
Finding to Appropriate
Administrator

No Hearing
↓
Hearing
↓
Reach Outcome by
Preponderance of Evidence

No Violation
↓
Share Outcome
with Parties
↓
Sanction
↓
Remedy Effects
↓
Reassess Duty to Warn

Violation
↓
Share Outcome
with Parties
↓
Appeal
↓
No Appeal
↓
Share Final Outcome

Title IX
Grievance Process
Flowchart

atIXA
Association of Title IX Administrators
As mentioned on page 14, the concept of social justice has made its way into student conduct processes. One component of social justice that is incorporated in many college and university conduct processes is the principle of restorative justice. Instead of violations of the code of student conduct being viewed as actions against the college or university, they are viewed as violations of people, relationships, and the community. According to Zehr (2002),

Restorative justice considers that these violations create obligations, the greatest of which is to identify and repair the harm. This is accomplished, to whatever extent possible, by holding offenders directly responsible to those harmed, rather than or in addition to the state [institution]. This is usually done in face-to-face encounters.

The community is a very important component of restorative justice. The restorative justice process seeks to create change in the community and prevent similar actions from recurring while addressing the needs of victims and holding offenders accountable.

**Perspectives on Student Conduct Processes**

To garner perspectives on the relationship between colleges and universities and inter/national fraternity headquarters and on their involvement in student conduct processes, the author created four groups of “experts” that were asked questions about their perceptions. The four groups included (1) senior student affairs officers, (2) legal and risk management specialists, (3) fraternity and sorority life staffs and student conduct officers, and (4) fraternity executives. The number of members in each group was purposely small to encourage dialogue and manage the
responses. Similar questions were asked of each group and group members were encouraged to comment on the responses from other members of the group. The responses provided some interesting perspectives and showed a difference of views based upon their roles. The respondents participated with the understanding that they would not be personally identified in this White Paper. Formal research methods were not employed in determining group membership, gathering the information or analyzing the responses. The information presented is simply a representation of comments from those invited to participate in the dialogue.

The members of the senior student affairs officers group included vice presidents for student affairs at public universities and private colleges who are recognized as leaders in their profession. They were hand-picked by the author because of their knowledge and experience in student affairs and in working with fraternities and sororities on their campuses.

The legal and risk management specialists group included attorneys, higher education law faculty, college general counsel, and risk management specialists. These individuals were hand-picked by the author for their knowledge of risk management and higher education law.

The student conduct officers/fraternity and sorority life group included student conduct officers and professional staff employed at colleges and universities with responsibility for Fraternity and Sorority Life. The members of this group were recommended by valued colleagues who serve as student conduct officers and are active in the Association for Student Conduct Administrators as well as valued
colleagues who serve as Directors of Fraternity and Sorority Life and are active in the Association of Fraternity Advisors.

The members of the fraternity headquarters group were recommended to the author. Unfortunately, the timing of the informal study was not convenient for fraternity headquarters staff. Thus, the responses from this group were limited.

Questions Posed and Responses

Members of the fraternity headquarters group, the senior student affairs officers group, and the student conduct/fraternity and sorority life advisor group were asked to briefly describe a situation where the college/university worked collaboratively with the chapter, local fraternity alumni (house corporation), and fraternity headquarters staff to address the conduct violations and reach a positive result.

While the situations described were based upon the individuals’ experiences, there were common themes. Timely notification of the incident was repeatedly mentioned by respondents from all groups. Although notification typically involves the college/university notifying fraternity headquarters, one respondent indicated that the university learned of an incident from a fraternity headquarters weeks after fraternity headquarters was aware of the situation. By contrast, one student conduct officer shared a situation where, “Within 72 hours, HQ was on campus and concurrently running an investigation for organizational/membership purposes.” Another student conduct officer commented, “Almost immediately upon learning of the incident, the national headquarters was notified by our student activities staff...
Reps from the national office visited campus and conducted their own independent investigation.”

A second theme was communication. Respondents emphasized the importance of communications between involved parties throughout the conduct process. One senior student affairs officer wrote, “The national and alumni were accessible and very communicative with us as we investigated and they investigated and we each came to our conclusions.” Another senior student affairs officer wrote, “Our goal was that the national fraternity and the university would be on the same page regarding the findings, the seriousness of the violations, and the appropriate disciplinary action. The national permitted us to conduct the investigation and then we shared everything with them.” A fraternity headquarters staff member commented, “The host institution provided great insight as to larger issues currently plaguing the chapter and how they connected to the violations that took place.”

The third theme was collaboration. A fraternity headquarters staff member stated, “The University spoke to Chapter officers/members, local advisors, and fraternity headquarters staff in determining the facts surrounding the incident and what course of action would best serve to educate the chapter, give them consequences and show that the University was taking the situation seriously since there was so much media attention surrounding the incident.” A fraternity and sorority life staff member commented, “As per our protocol, we invited the national fraternity to assign a staff member to work with our Student Affairs investigation team. . . Following the conduct proceedings . . . they [national fraternity] initiated a new membership program that would require commitment from both the alumni
and the university – this usually results in a positive result.” One senior student
affairs officer commented about fraternity headquarters staff alerting the institution
of an incident involving the fraternity chapter. “They [fraternity headquarters]
investigated and shared the information with us, they took action to sanction
members and the chapter and worked collaboratively with us.”

These groups then were asked to briefly describe a situation where the
university and the fraternity headquarters staff did not work collaboratively to
address conduct violations resulting in a negative result. Naturally,
college/university officials reported issues with fraternity headquarters and local
alumni while fraternity headquarters staff reflected on college/university failures to
cooperate.

A fraternity headquarters staff member best summarized the issue from a national
fraternity perspective when he stated,

Because we were unable to work in partnership through
investigation, there was no opportunity to collaborate together and
compare information obtained in our respective investigations... the
General Fraternity was then made to decide whether to A) support the
chapter’s appeal of the University decision and possibly cause harm to
the relationship between the University and General Fraternity or B)
not support the chapter’s appeal and possibly cause harm to the
relationship between General Fraternity and chapter.

Conduct officers, fraternity and sorority life staff, and senior student affairs
officers described situations where fraternity headquarters chose not to become
involved in the situation and created adversarial relationships. One student conduct officer wrote, “The local leadership and national office spent several weeks arguing about our process and how it was unfair... the organization had their lawyers write their appeal and they wrote an appeal which was personally insulting to members of the university administration.” A senior student affairs officer commented, “When the university suspended the group, the national did not pull the charter. The local continued to accept new members into the group during the entire time it was suspended and all were accepted by the national as members in good standing.”

Another senior student affairs officer described how they discovered that a national sorority was investigating the same alcohol related incident as the university. “They [fraternity headquarters] never indicated that they even cared about it when we contacted them. After we contacted them [again] they said they were finding things that disturbed them but would not share anything.”

Senior student affairs officers, student conduct officers, and Greek advisors also commented on the difficulty in working with chapter alumni. One conduct officer bluntly stated, “We’ve found that the local or regional representatives are more likely to be obstructionist or ‘run interference’ and challenge the University’s actions.” A fraternity and sorority life staff member described a particular case where “the fraternity’s national organization turned over control to the alumni board for them to provide oversight. However, alumni do not live locally and have only had regular contact via telephone and email communication, with monthly meetings with officers. Consequently, behavior issues have continued.” Another conduct officer described how after the fraternity national decided not to
Collaborate with the University in investigating hazing incidents, “Several alumni and advisors to the organization filled the void, and took an adversarial approach to both the investigation and with the University.” In discussing the college’s attempts to address a host of behavioral issues inside a fraternity house owned by the college, a senior student affairs officer stated, “Eventually we stopped receiving responses from the national office when we expressed concerns about recent behaviors and the lack of action from local advisors appointed by the national.”

Partnerships seem to be the key to successful fraternity chapters even when there may be a conduct violation. As one senior student affairs officers stated, “A successful Greek chapter has four partners: the students, the national office, local alumni, and the college. If any of those four partners is not constructively engaged in the life of the chapter, the group will not survive.” Another senior student affairs officer added, “The only way to assure successful outcomes in these types of cases is to have all stakeholders fully engaged and ultimately on the same page.”

The legal issues and risk management specialists had lively online discussions to a different set of questions. The first question addressed the changing relationship between universities and inter/national fraternities. They concluded that both universities and inter/national fraternities are more likely to be held liable for the actions of individual chapters and/or chapter members than 30 years ago. According to an attorney in the group, colleges and universities liability arises from the failure to establish and enforce reasonable policies; whereas inter/national fraternity liability most often arises from the failure to adequately
train chapter leadership and alumni advisors. The group concluded that “neither nationals nor colleges can be sure of a commonality of interests in court.”

The next two questions dealt with universities collaborating with fraternity headquarters on investigations and conduct proceedings. Again, the assumption that a commonality of interests exists between universities and fraternity headquarters was questioned. As a college general counsel stated, “Fear of liability in an increasing litigious society has had the effect of pushing colleges and fraternities apart and leading to more finger-pointing, particularly in high-stakes cases.” Most of the group indicated that they support collaboration between universities and fraternity headquarters in investigations of alleged conduct violations and in determining appropriate sanctions, both from the university and the inter/national fraternity. There was discussion concerning the ability of inter/national fraternities to conduct appropriate investigations. The discussion focused on the maturity of chapter consultants and the lack training they receive on conduct processes.

The next question addressed how a university should balance individual and organization rights in student conduct proceedings. The balance of rights seems especially difficult to maintain when the offense may result in criminal charges and various entities (criminal investigators, district attorney, inter/national fraternity headquarters, and chapter alumni) all believe they should control the process. One attorney suggested that memoranda of understanding (MOU) be developed with local legal entities and other invested parties from the beginning. The MOU should address expectations for sharing reports and communicating with each other, the
investigation process including how to proceed with different investigations without interfering or obstructing justice, how decisions will be made regarding moving forward with stakeholder processes, and how the media will be addressed. It is wise to develop relationships with stakeholders before a serious incident occurs. A general MOU might be shared with local law enforcement and district attorneys and their support garnered in advance of incidents. All members of the group agreed that it is important to set expectations and seek the support of those stakeholders who have a vested interest in the proceedings.

**Rethinking Fraternity and Sorority Advising**

A recent article in *Leadership Exchange*, “Rethinking Fraternity and Sorority Advising: The Role of Coaching and Technology” (Hogan, Koepsell & Eberly, 2011), was shared with the groups by the author to promote discussion. The article derives from discussion at the 2011 Greek Summit of senior student affairs officers and national fraternity and sorority leaders. The question being addressed by participants in the Greek Summit was how can campuses and national organizations maximize the impact of the staff and volunteers they deploy to support fraternity and sorority life on campus?

The Summit participants recognized that campus fraternity/sorority advisors, chapter consultants, volunteer faculty and alumni advisors “often have common personal experiences in a fraternity or sorority, limited professional experience in student and/or organizational development, and little or no training” (p. 13). Instead of continuing the current central campus advising model, the article
authors suggest that a new model be employed that expands the use of volunteer alumni, redefines their role, and provides for a certification process.

**Coaching Student Leaders Model**

1. Shift the focus to leadership coaching
2. Take a team approach.
3. Expand volunteer alumni involvement as coaches and advisors
4. Reshape the roles of fraternity/sorority advisor and chapter consultant.
5. Provide uniform training to certify coaches and advisors.
6. Encourage preparation programs to address volunteer development as a required professional skill (Hogan, Koepsell & Eberly, 2011, pp. 13-14).

While supportive of a coaching model, senior student affairs officers voiced concern for the time and effort such a model would take and skepticism about change the model might bring. As one senior student affairs officer stated, “I have fraternities now that have very positive engaged alumni groups and the chapter generally performs better when that is the case. But I also have chapters that suffer from lack of alumni engagement and those who suffer from negative alumni influence... to assure a positive alumni coaching team within each of these environments would be a challenge.” The higher education legal experts concurred with the senior student affairs officers. As a general counsel wrote, “In theory, this sounds like a great approach, but in practice, I can’t imagine it would work out as described very often. It would require a great deal of commitment and work from people whose reasons for participating probably aren’t these [attempt to improve individual performance of student leaders within a team context] and who probably
aren’t invested in making it work.” One student conduct officer responded, “I don’t think they need to reinvent the wheel.” Fraternities and sororities do not use the resources available to them now. Why would we think fraternities and sororities would use the resources in a new model?

All groups involved in the discussions recognized that current processes are not working as well as they should. The place to start improving relations in the student conduct process is to develop a shared understanding of investigative and student conduct processes followed by collaboration in conducting investigations.

**Recommendations for Addressing Student Conduct**

**Recommendation 1**

The Fraternity Executives Association (FEA) should spearhead the development of a training module for conducting investigations of alleged conduct code violations involving fraternities and sororities and implementation of a pilot project involving selected colleges and universities and inter/national headquarters. Support for the investigation module and pilot project should be garnered from the Association of Fraternity Advisors (AFA), Association for Student Conduct Administrators (ASCA), and the National Association of Student Personnel Administrators (NASPA). Fraternity and sorority life staff, fraternity and sorority chapter consultants, and campus student conduct officers would receive the training and be asked to utilize the training in conducting collaborative conduct investigations. An outline of suggested components of the training appears later in this paper.
Recommendation 2

Develop and implement a pilot project involving selected colleges and universities and inter/national fraternity headquarters to train staff in the conduct investigation process and to conduct collaborative investigations of alleged conduct violations involving fraternities and sororities for a period of one year.

NOTE: If plans exist to create a pilot project for the Coaching Student Leaders Model suggested at the 2011 Greek Summit, conduct investigation training might be included in the education of fraternity and sorority life staff, chapter consultants, and alumni advisors.

Recommendation 3

Conduct a thorough evaluation of the investigation training program and collaborative investigations at the pilot program colleges and universities. Determine if the pilot program was successful and should be expanded. If so, determine what improvements can be made to the training and investigations. Determine how to provide the training on a larger scale.

Investigation Training

When the author served as Dean of Student Life at Texas A&M University, he recognized the need for training staff to conduct investigations of alleged violations of code of student conduct. Many, but not all, of the investigations were of alleged hazing violations that involved student organizations including fraternities and sororities and the Corps of Cadets. Quite frankly, the department did not have the staffing in its Student Conflict Resolution Services Office to spend time investigating incidents and also conduct hearings. It was also an attempt to avoid a conflict of
interest where the investigator was also the hearing officer. The author bases the recommended outline for investigation training largely upon the Conducting Student Investigations training manual developed by the Department of Student Life at Texas A&M University, a presentation by the author at the Stetson College of Law, Law and Higher Education Conference (see appendix), a webinar on investigating hazing incidents presented by Dave Westol for HazingPrevention.org, and lessons learned by the author.

**Key Components of Investigation Training Program**

1. Purpose of investigations

2. Authority to initiate investigation
   a. Authority within college or university
   b. Authority of inter/national fraternity headquarters

3. Role of investigators
   a. Promptness
   b. Thoroughness
   c. Impartiality

4. Preparation for investigation
   a. Referrals of incidents
   b. Timeline for investigation
   c. Who to interview
   d. Interview questions
   e. Investigation File
   f. Applicable university and inter/national fraternity policies
5. Conducting the investigation – Investigation interviews
   a. Responsibility of students, advisors, staff, and alumni to participate in investigation interviews
   b. Group vs. individual investigation interviews
   c. Role of advisor or support person in investigation
   d. Access to investigation records
   e. Written statements vs. verbal statements
   f. Interviewing witnesses
   g. Clarifying interviews with witnesses

6. Preparation of investigative report

7. Submission of report

8. Role plays of investigation

9. Report writing practice

10. Review of investigations and roles

11. Brief Overview of Student Conduct Processes
   a. Notice of Charges
   b. Hearings
   c. Sanctions
   d. Appeals

**Pilot Project Participants**

FEA along with the other participating professional associations would identify colleges and universities to participate in the pilot project. FEA would
identify which inter/national fraternity headquarters would participate in the project.

1. Identify and gain commitment from senior student affairs officers at 10 colleges and universities in the United States to participate in the pilot project. Author recommends that the pilot project group include five public universities, three private universities, and two small colleges (less than 3,000 students).

2. Identify and gain commitment from inter/national fraternities with chapters on the identified campuses to participate in the pilot project.

3. Conduct investigation training for fraternity and sorority life staff, student conduct officers, and other faculty/staff who may serve as investigators on the pilot campuses.

4. Conduct investigation training for inter/national fraternity headquarters staff who may serve as investigators.

5. Provide consultation services (investigation training facilitators) to campuses and inter/national fraternity headquarters regarding investigations on campuses.

6. Check on status of investigations on campuses at least four times during the academic year.

7. Provide status update to FEA and other participating associations in December with final report in July.

Obviously, there are considerable logistics to be finalized before such a program could be implemented. The author suggests that the 2012-2013 academic
year be spent in gaining support for the program and addressing the logistics of implementing the pilot program in summer 2013.

**Conclusion**

A close colleague of the author and the author were recently lamenting how student conduct processes have changed since both were student conduct officers early in their careers. Student conduct processes are becoming more complex every year despite attempts by many to simplify procedures. Expectations of parents and special interest groups and regulation from state and federal government have created quasi legal systems to address alleged acts of behavior that violate institutional codes of conduct. Gone are the days of what the author refers to as the Dean's chat, where the Dean of Students would sit with a student and discuss the reported inappropriate behavior before determining what action would best help the student learn from his/her mistake(s). Colleges and universities find themselves in a new era of compliance where state and federal regulations govern nearly every aspect of college and university operations including conduct processes.

Colleges and universities are being held more accountable for the actions of its students and for taking preventative measures to assure that students do not harm themselves or others. The time is right for colleges and universities to improve collaborations with inter/national fraternity headquarters on prevention efforts and processes that address conduct violations.

Persons interviewed by the author in developing this paper agreed that collaboration is necessary and would improve relations between colleges and
universities and inter/national fraternity headquarters. All sides voiced an eagerness to improve relationships while citing distrust based on poor experiences. The reality is that colleges and universities are very diverse as are the administrations that run these institutions. Institutions will seek to protect themselves when situations may lead to legal action and/or media coverage. Similarly, inter/national fraternities are diverse in their values and ways they operate. Complicating this factor is the maturity of the staff, both at colleges and universities and inter/national fraternities charged with working with collegiate fraternity chapters. Many Greek advisors and chapter consultants are recent college graduates who lack professional maturity in addressing significant problems.

The original premise for the paper was to consider ways for collaboration in the student conduct process. Many campuses already involve inter/national headquarters staff in investigations of alleged violations of the code of student conduct involving campus fraternity chapters. However, untrained headquarters staff and perhaps, untrained staff at colleges and universities are conducting investigations. To be truly collaborative, staff from both entities should be trained in the same methods of investigation.

The author believes that both colleges and universities and inter/national fraternity headquarters will benefit from receiving consistent training in conducting investigations. It will be important to define the roles of the investigators and have an understanding of acting as equal participants with one common goal. Communication and collaboration are the keys to success with not only
investigations, but also successful relationships between colleges and universities and inter/national fraternity headquarters.
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Appendix I

Responses to Questions Regarding Perspectives on Student Conduct

Briefly describe a situation where the fraternal organization (local leadership and inter/national headquarters) worked collaboratively with the university to address the conduct violations and reach a positive result. Do not identify the fraternal organization or the institution.

• About two years ago we had a hazing case. It had all the elements of a typical hazing case, alcohol, students put at risk, false information provided to the University etc. The national office and the local leadership were incredibly proactive and when the hearing came about, the organization pled responsible and presented a very bold and very innovative plan for revitalizing the chapter instead of closing it. The plan was developed in conjunction with our OFSA and it is now in place and seems to be working well. Without this collaboration we would have closed one of our oldest organizations.

• Fraternal organizations often open up their houses the week before classes begin, with executive officers and or active members moving back in advance of the start of school. In this particular instance, the organization also had new members (full-time, first time students at the University) move in the week before the beginning of school. Given the absence of classes or structured time, much of the new member experience the first week involved hazing: new member line-ups; forced physical exercise; alcohol consumption (power hour, etc.); sleep deprivation; and, cleaning practices. Based on the levels of hazing and alcohol consumption, the University interimly suspended the organization, contacted HQ, and immediately began an investigation. Within 72 hours, HQ was on campus and concurrently running an investigation for organizational/membership purposes. Based on the staff resources, scope of authority, and types of remedial sanctions available to the University, the University made a recommendation to suspend the organization. Through communication and partnership with HQ, HQ understood the severity of the issue and the limitations of the University. As an organization, HQ representatives created an exhaustive remedial plan of action for the organization, things that were outside the scope of the University, and submitted it to the University hearing board. Based on the quick and decisive actions by HQ, as well as the all-inclusive sanctioning plan, the organization was allowed to remain on campus rather than being suspended.

• One of our fraternities had a party that resulted in a reported sexual assault that led to the findings of many other violations involving alcohol, assault and other forms of inappropriate behavior. The national and alumni were accessible and very communicative with us as we investigated and they investigated and we each came to our own conclusions. Sharing those we agreed to shut things down for two years, let everyone graduate and leave and then start things over. We found a sorority
without a house who became good renters and every time an alumni surfaced to complain about the decision, the institution and fraternity national stood together saying that the chapter was not one to be proud of and that a hiatus would allow for a clean start in a few years.

• One of our fraternities was having open parties in violation of FIPG standards. (It bears noting that the University does not have a process or policy requiring student organizations to register parties). The incident got on the University’s radar when an attendee of a party recalled having a single drink at a private residence off-campus and then appeared to have no memory of the rest of the night. The attendee was documented by her Resident Assistant when she returned stumbling to her residence hall (being assisted by another student). In the RA’s report, the location where consumption was allegedly occurring was a particular “fraternity” house (our campus does not have recognized fraternity houses, so this generally means a group of active brothers who share a lease).

Almost immediately upon learning of the incident, the national headquarters was notified by our student activities staff. Student Activities interviewed fraternity men – a random sample of active brothers, the executive board, and the person who was the apparent party organizer. The staff also interviewed the attendee, who subsequently recanted and denied naming the location to the RA as a fraternity house. Regardless, the fraternity officers were forthcoming in their interviews about hosting open parties in violation of FIPG standards. Reps from the national office visited campus and conducted their own independent investigation which corroborated the University’s findings. The Executive Director of the fraternity frequently called the Director of OSAL to check-in on the group. As a result of the fraternity’s investigation, they conducted a member review, which resulted in some members being converted from active brothers to alumni status. In the end, the national organization stepped up and it enhanced the University’s relationship with this organization over time. Ultimately no formal conduct action occurred but the resolution was satisfactory to all involved.

• We have recently had a situation that was brought to our attention by the national. We don’t know who reported it to them, but they investigated and shared the information with us, they took action to sanction members and the chapter and worked collaboratively with us. The local rep and the national staff were good to work with, not defensive and as a result we’ve been able to move forward in a positive way.

• When I first arrived here our Greek community had significant issues with “annex” properties, off-campus houses that students went to in order to party. These houses were handed down from year to year to sorority members. This was especially prominent with one of our sororities since their house was “dry.” The property in question was occupied by seven members of that sorority. We received a neighbor complaint about a specific party there and began an investigation. Once we established that the behaviors in question likely violated our conduct code and that
the occupants of the house did indeed belong to a specific sorority, their national office was contacted and given the opportunity to be the first responder to this specific situation and the historical context of the incident. They did take what we considered to be appropriate action and helped jump start a process that has resulted in these annex properties no longer being a source of significant risk management concern for the college and the national organization.

• We had an incident of violation of alcohol policies and violation of rush policies on the part of a fraternity at the beginning of this semester. We had a previous incident with this same fraternity a couple of years ago involving the exact same violations, i.e. hosting a "rush party" at an off campus house so that underage pledges could be provided alcohol. We immediately engaged the national office and reported what we knew and expressed our strong desire to work through this together. Our goal was that the national fraternity and the university would be on the same page regarding the findings, the seriousness of the violation, and the appropriate disciplinary sanction. This was a very interesting case because two years prior the national had delayed their findings until the university completed our process and determined our sanctions. Our sanctions were a year of probation (no social functions and no rush) and an array of educational sanctions. We also took individual actions against certain members. Then the national weighed in with much more severe sanctions than the university imposed (suspended the chapter, pulled the charter, and expelled several members from the fraternity). It was awkward. But this Fall when were very explicit that we did not want the same uneven outcome and why. The national permitted us to conduct the investigation and then we shared everything with them. We then recommended our set of sanctions to them prior to communicating it to the local fraternity. They ultimately accepted our sanctions, even though they were more severe than what the fraternity was considering (exactly the opposite of two years earlier). So we were able to jointly announce the sanctions. We also engaged the alumni on the process and the decisions. We placed the fraternity on probation for a year. We allowed the members that were living in the house on campus to remain, but we placed an "RA" in the house at the fraternity's expense. The RA's job is to assure compliance with the probationary terms and he reports directly to the Dean of Students Office weekly. There were also an array of educational sanctions. An example of the compromise was that the national was going to level a healthy fine against the fraternity, but they waived that in lieu of our plan to require them to pay the RA for a year (the money was about the same).

• Situation involved an alleged sexual assault that occurred in a fraternity house during an unregistered fraternity party. Initial reactions from the fraternity conflicted with reports received from other individuals in attendance. University Police, local police, and the State Attorney's office conducted an in depth investigation which included search warrants and full forensic investigation. The national office was contacted and notified of the allegations and conflicting reports. The National office placed the fraternity on suspension pending the outcome of an
investigation. Although members were allowed to live in the house, all organizational activities were suspended for over 2 months.

During homecoming weekend, the fraternities alumni advisory board/house corporation met and requested to meet with University officials. After reviewing the situation with alumni, the university and the national office arranged for the fraternity to be placed in “alumni receivership” (a term I was unfamiliar with until that time). All fraternity activities had to be approved by the alumni advisory board, and an alumni member had to be present. All social activities were suspended, but the fraternity could conduct service and philanthropic events. Chapter meetings, and new member training were conducted, but initiation was postponed until final resolution. The fraternity conducted an honor council hearing and removed the member that was alleged of the sexual assault. Risk management and alcohol education programs were conducted for the membership.

The university conducted a student conduct process for the alleged sexual assault, and took appropriate action.

Six months after the incident the State Attorney’s office dismissed the charges against the accused student indicating that there was insufficient evidence to support criminal charges.

The University conducted an organizational hearing. Appropriate actions were taken against the fraternity and they remained in alumni receivership for the full academic year.

I recently worked with a group in response to an incident involving alcohol-related violations. The host institution first made our office aware of the incident and we worked in partnership throughout the investigation. By keeping both sides fully apprised of what we each were learning through our conversations with chapter members, we were able to agree upon the confirmed violations and how to respond. The host institution provided great insight as to larger issues currently plaguing the chapter and how they connected to the violations that took place. As a result of that insight, we implemented sanctions that not only directly addressed the violations but also addressed the underlying issues that led to the violations. This greatly increased the probability that the chapter will no longer violate those particular aspects of the policy as well as improved the chapter at a wider level than what the sanctions geared solely toward the violations would have done. Also through this partnership, we avoided the chapter being placed on a “double set” of sanctions, in which they have to complete, and comply with, two different set of sanctions (one from the University and one from the General Fraternity). This avoids confusion and helps the chapter stay focused on the ultimate objective, which is to improve and learn more the mistakes that occurred.

There was an incident at a Chapter’s formal event, which resulted in damage to the venue and extensive media coverage. The University spoke to Chapter
officers/members, local advisers, and fraternity headquarters staff in determining the facts surrounding the incident and what course of action would best serve to educate the Chapter, give them consequences and show that the University was taking the situation seriously since there was so much media attention surrounding the incident (which in turn led to a broader discussion about what purpose Greek organizations were serving and whether they were living up to their own organization’s values, as well as the University that was recognizing them on campus). Due to the collaboration between the University and the organization at the local and International level, educational sanctions were put in place that would serve the Chapter well into the future and would not be something that was merely done by the Chapter in an effort to get off of probation (both the University’s and the organization’s) as quickly as possible. In working together, the University and organization were able to "mirror" the sanctions (for the most part) and the Chapter wasn’t left attempting to meet several different requirements to fulfill the same purpose. The University saw the organization as being proactive and took into consideration the fact that the organization was holding its members accountable and disciplining them according to the organization’s policies and procedures.

**Briefly describe a situation where the fraternal organization and the university did not work collaboratively to address the conduct violations creating a negative result. Do not identify the fraternal organization or the institution.**

- The local leadership and national office spent several weeks arguing about our process and how it was unfair. They, in my opinion, had members withhold information and they were less then helpful in maintaining a sense of order within the organization. They had a hearing which was highly adversarial and the organization was closed. The appeals process was also made more difficult as the organization had their lawyers write their appeal and they wrote an appeal which was personally insulting to members of the university administration. The appeal was denied the organization was closed, and there are still some hard feelings over the entire process.

- I can only think of one case that has been a bit complicated and it involved a case in which the chapter was investigated (with the assistance of the national organization representative), individuals charged and held accountable, organization charged and held accountable but whose local alumni have not agreed with the concerns identified in the case or other observations made by Greek Life staff and national visitors.

As a part of this particular case, the fraternity’s national organization turned over chapter control to the alumni board for them to provide total oversight. This was to include officer elections, budgets, etc. However, alumni do not live locally and have only had regular contact via telephone and email communication, with a monthly meeting with officers. Consequently behavior issues have continued with the result
being another incident resulting in individual charges and another organizational case. What we gathered from the second investigation was the “good ole’ boys” attitude regarding the situation and what they saw as an over-reaction from the national fraternity. In addition, parents were not told the truth as to what originally occurred in the first incident and the university was vilified by the alumni as being too harsh and just wanting to “shut them down”.

- I have had a situation where an organization has extensive hazing practices over the course of the entire new member process: kidnapping and drop-offs; lineups; embarrassing activities like nudity or partial nudity; forced alcohol consumption; physical abuse and paddling; and, other forms of mental or physical harm. In contacting HQ, the National representatives decided to not get involved until after the University had completed the investigation. They also took a very passive approach to working with the organization and its executive officers during the investigation and hearing process. Several alumni and advisors to the organization filled the void, and took an adversarial approach to both the investigation and with the University. I think this influenced the participation of students, with several students giving false statements during the hearing process. With the adversarial approach taken by the local advisor and alum, several students also did not understand the significance of their actions.

In the end, upwards of 20 individual members were recommended for suspension from the University, with a dozen more recommended for expulsion (based on false statements and a lack of remorse/understanding). I don’t think the University, HQ, alumni, and the advisor shared a common message, or a common understanding of the significance of what was going on. Moreover, we were not able to collectively work together, and ultimately, I think it greatly affected the well-being of the student organization and the attitudes/understanding of the individual student members.

- No salient example comes to mind. Our perception is that the national organizations generally take the position that it is in their best interest to work collaboratively with the University when allegations of group misconduct occur. On occasion we’ve found that the local or regional representatives are more likely to be obstructionist or “run interference” and challenge the University’s actions, but in those limited circumstances, the National Office is quick to put the local/regional representatives “in check” to ensure future cooperation.

- Just this week we found out a sorority national had been investigating the same alcohol related incident we were looking into. They never indicated that they even cared about it when we contacted them. After we contacted them they said they were finding things that disturbed them but would not share anything. They also said they would not be sharing any action taken.

- A student who was injured came forward to complain to the university. The national staff have been defensive telling us they could not share their findings with us (in fact they said they would only share with us after we had shared with them
first – leading our staff to believe we would only hear about things we already knew). They first defined the incident as an accident since no one intended the student to get hurt. A staff member even told one of our staff this was in fact part of their ritual. When pressed they agreed that the students were to drink water not some unidentified substance that made everyone throw up and that no, pouring hot wax on students’ chests was not part of the ritual. This one is still in process but so far it is not going well.

• One of the worst examples from my experience is an old story, but highlights one of the most difficult realities. In that case a student died and criminal charges were possible and civil lawsuit likely. As a result the national would not engage with the university, and were unwilling to make any admission against their organizational interest. In fact when the university suspended the group, the national did not pull the charter. The local continued to accept new members into the group during the entire time it was suspended and all were accepted by the national as members in good standing.

• For a number of years we worked with a fraternity to address a host of issues related to student behaviors inside of their university owned house, their lack of engagement with the larger Greek community, and their lack of commitment to fraternal values. We periodically had success in working with our student leadership in bolstering the on-campus work but found a lack of consistent support from the national headquarters. Eventually we stopped receiving responses from the national office when we expressed concerns about recent behaviors and the lack of action from local advisors appointed by national. This dynamic resulted in us revoking recognition from the chapter and the active members at the time dropping their charter. We and the student leaders had come to feel that without stronger national support it was futile for the students to continue their efforts.

• The year before I arrived there was a very severe alcohol poisoning case involving a fraternity. It was also the second serious case involving this chapter within two years. The university followed their normal disciplinary process, investigated, and called the students in for a hearing, etc. The decision was to suspend the chapter for a year. The chapter president and the advisor signed off on the sanction. Then the alumni began to weigh in. They pressured Student Affairs and the President. Student Affairs contacted the national fraternity. National was unwilling at that point to get involved and merely gave the university a response from their attorney. The President referred the entire case to the university attorney who "negotiated a settlement" which allowed the fraternity to keep its recognition and to keep their members in the house. It was a serious blow to the efforts of Student Affairs to send the right message to the fraternities about alcohol, hazing, rush, etc. When I came the following year, we changed our disciplinary process and our communication protocols.

• In four separate incidents, women were seen at the local ER. Each of them had been at a fraternity party and after drinking punch at the party, blacked out and
couldn't remember what had happened that evening. Local police were alerted by hospital staff, obtained search warrants and conducted a search of the house and collected forensic evidence.

The national office was notified of the incident by the University and indicated that they would await the outcome of the police investigation.

Interim action was taken by the university to suspend the fraternity pending the resolution of the matter. Six months later the State Attorney's office dismissed the case indicating there was insufficient evidence to support criminal charges.

An organizational hearing was conducted. The national office declined to get involved in the matter and indicated they would await the outcome of the hearing. The fraternity was found responsible for an unregistered party and given their prior record of violations, was suspended for four years. These actions were appealed by the fraternity, national office and alumni. Two years later the Universities actions were over turned by a district court and directed the institution to reinstate the fraternity (a story in and of itself). It was another year before the fraternity was able to renew operations (a total of three years from the original incident).

• I recently dealt with a situation in which we were unable to collaborate at all with the host institution through neither the investigation nor the resulting outcome. As a result, the General Fraternity and University disagreed on whether or not the chapter violated policy. Based on the General Fraternity's investigation, we concluded that the chapter had not violated policy; rather the incident was a result of individual-member misconduct. The University disagreed with this conclusion and found the chapter responsible. Because we were unable to work in partnership through the investigation, there was no opportunity to collaborate together and compare information obtained in our respective investigations. Ultimately this resulted in the differing conclusion about chapter-level responsibility. The repercussion of this difference is that the General Fraternity was then made to decide whether to A) support the chapter's appeal of the University decision and possibly cause harm to the relationship between the University and General Fraternity or B) not support the chapter's appeal and possibly cause harm to the relationship between the General Fraternity and chapter. Either way it's a lose-lose situation.

• There was an alleged sexual assault that occurred when members were out drinking with new members (which also led to an investigation and substantiation of hazing). Although, there was little to no media attention surrounding the incident, I think there were some at the University that believed that a lawsuit was imminent. The University (or I should say a couple of staff that have since been removed from the Greek Life Office) held an emergency meeting with the Chapter at its local facility and immediately placed the Chapter on probation, with the forewarning that the Chapter was going to cease to exist on campus for a number of years. At that point, there had been very little discussion with anyone at the
organization (locally or Internationally). The local advisers are the ones who went immediately to the International organization so that we could all try to work together. The staff in the Greek Life Office did not seem interested in that tactic and gave the appearance of having an ask to grind against the organization. Members that had stayed with the NM and taken steps to get her help were expelled by the University after a formal hearing. The University did not even give the organization a chance to discipline anyone that they believed was "at fault" and proceeded with their own judiciary proceedings. Even law enforcement personnel that were involved in the sexual assault investigation were astounded at the action that the University took against members who the police believed had done things correctly. The University gave the organization it's decision as to what would happen with the Chapter and there was little room to negotiate. The organization had to "accept" the consequences, which at the time they were initially handed down were one of the strictest to have happened on campus. The University refused to recognize the Chapter (for what initially was going to be four year) and the Greek letters of the organization were removed from the facility. Eventually, the University decided that the Chapter did not need a four year suspension from campus and allowed the International organization to come in and start rebuilding the Chapter (basically from the ground up).

What caused there to be different results in the two situations you described?

• The attitude of the local alumni seemed to be the deciding factor. In the first case, the alums seemed to understand that we were working together to ensure a safe healthy environment for students. In the second scenario, the alums were in an "us against them" mode from day one.

• The difference between the two situation described is the collaboration, communication, cooperation and coordination of all of the stakeholders when responding to situations. In both cases, the university and the national fraternity were working together and had a complete picture of what was going on AND what would be appropriate in the future. The local alumni, however, were not involved collectively at the table and as such communication among all of stakeholders was not complete and attention to the future of the chapter was hap-hazard at best.

• To me, the differences are reflected not only in the levels of communication, but with the collective understanding of what the problem is (e.g. substance of the problem as well as how systemic it is), the sharing (or not sharing) of common goals, and an understanding of the limitations of other stakeholders.

• The causes of difference seem to be shared values and beliefs about the values and behavior expected of a collegiate chapter with their name on it and institutional affiliation. We also shared the idea that better to share information and have conversation frequently so we know what we are facing together. That sharing and
frequent communication did build a trust AND it made the university WANT to help the national who clearly had some fiscal issues to address. We were glad to help out.

• I think the different results come from a willingness (or lack thereof) to admit that a chapter has made mistakes. Whether it is fear of lawsuit or a reluctance to close another chapter, the behavior is the same. It is an adversarial stance toward the university rather than a partnership. The aim of the adversarial stance seems to be protection of the organization. Nationals (and local representatives) who are willing to work as partners seem more concerned with protecting the students than the organization.

• The difference in results stemmed from the involvement or lack thereof of a significant partner in the relationship. I’ve insisted that a successful Greek chapter has four partners: the students, the national office, local alumni, and the college. If any of those four partners is not constructively engaged in the life of the chapter, the group will not survive. In the case of our failed chapter, the lack of national support was fatal in spite of commitment from the student leadership, the college and local alumni. In the successful scenario, all the stakeholders did their part in addressing the issue and maintaining accountability after the incident.

• The only way to assure successful outcomes in these types of cases is to have all stakeholders fully engaged and ultimately on the same page. Stakeholders in this case include the university, the national organization, the alumni group, and the members and advisors of the local chapter. We have all had mixed success in getting them on the same page in the context of serious disciplinary violations, so we must work hard to assure that dialogue and agreement on mutual goals and outcomes in advance of the problems. The answer to your question regarding the two scenarios I described is the efforts of the university to assure that we communicated with and collaborated with the national organization and the alumni throughout the process. It is the collaboration and the give and take that is important. Prior to reaching a final conclusion on the actual actions to take in a case, we need to work to reach agreement on what final outcome we seek, i.e. what are we trying to accomplish, so we can learn where we have common ground and where we have gaps that we need to close. That way we are better able to recognize when we are at a successful conclusion and avoid the kind of surprises that were in scenario #2 above.

• The success of a Greek organization is dependent upon the cooperation and collaboration of the national office, alumni, students and the institution. Had there been involvement from the national office and the alumni in addressing earlier incidents with the second group the situation may have been avoided all together. Further, had there been cooperation and involvement by the national office and alumni, it’s likely that the length of the suspension could have been reduced.

• The main difference in the two above situations was the transparency, or lack thereof, in the investigation process between the two sides (General Fraternity and University). By being transparent with each other throughout the investigation,
both sides typically come to a similar conclusion about the alleged violations and therefore are able to come to a mutually agreeable response. A lack of transparency significantly increases the possibility that the two sides will have differing conclusions and responses, resulting in a possibly contentious appeal in which the two sides are against each other.

**Briefly describe the process on your campus for addressing alleged conduct violations by fraternal organizations and include the link to the published process, if available.**

• All of Greek Life is off campus and in privately owned houses. The Code of Student Rights and Responsibilities doesn’t generally allow for the adjudication of off-campus behavior. Here is the specific language:

The University may not institute disciplinary proceedings unless the alleged violation(s) giving rise to the disciplinary action occurs on University premises or at University sponsored or supervised events, or as otherwise required by federal, state, or local law."

The exceptions, as written, are University sponsored events (e.g. University funding) and as required by law (recently revised to accommodate OCR and requirements for sexual harassment). The other exception, which is not explicitly stated, is hazing. I cannot speak to how or when hazing was pulled out as an exception, but adjudicating hazing has been standard practice for some time, and applies to all organizations.

• I am going to focus on hazing cases in these responses. For social policy violations the process is: Report from police, investigation, meeting, resolution.

For a more significant case, usually hazing with alcohol involved, we first allow campus police to act on the case. They may interview members and new members and then they will notify my office if they are moving forward or turning the case over to us for adjudication.

Once we receive a case, we generally start by pulling together OFSA staff, myself, and our Associate Dean. We then review the information we have and begin formulating questions to use in interviews. We will then call in all the new members at one time, and begin interviewing them individually. At the same time we will inform the organization that their new member activities are suspended until further notice while we investigate.

Then we begin interviewing chapter members, officers first etc.

We will then have a meeting to review all of our interview notes, charges will be drafted, and the organization will be notified of the charges and some type of
discriminatory process (usually a hearing before our campus hearing board) will be held.

• The process for fraternal organizations is the same process for other recognized student organizations or individuals, though our practice has been to insert an investigation between receipt of a report of alleged misconduct and scheduling of a hearing for student organization cases (we do not normally “investigate” individuals who are alleged to have violated the Code of Student Conduct).

• Essentially, a report is received alleging violations of the Code of Student Conduct by a named fraternity. An investigation may occur (no written procedures exist for an investigation at this moment). The president of the fraternity as listed on file with our student activities office serves as the sole representative of the group. The president receives the notice of charges by way of the president’s university-supplied student email account (we use Maxient so we know precisely when/if they receive it, though it is worth noting that the organization has an electronic record in Maxient but we use the president’s email address for all contacts with the organization). A hearing occurs with a single administrative hearing officer in our central conduct office, and relevant witnesses may be invited to participate. Following the hearing, a decision is made by the hearing officer, who communicates her findings to the president via an outcome letter generated in Maxient and sent to the president’s student email account. The president can appeal the finding or sanction using the same criteria as individual students who wish to appeal the decision of the hearing officer. All appeals are heard by our Student Conduct Committee, which is an appellate board consisting of 2 faculty, 2 staff, and a nonvoting faculty chairperson. The Committee makes a recommendation to the Dean of Students, who decides the final disposition of the case.

• Any allegation of misconduct by fraternities or sororities comes to the Office of Fraternity and Sorority life for investigation and hearing. The Director of Fraternity and Sorority Life contacts the chapter president to present the information and allegations and answer any preliminary questions about the process or information. The chapter president and chapter advisor then receive a notice of alleged violation. The chapter conducts an internal investigation while the OFSL is gathering information simultaneously. IFC chapters will then schedule a hearing with the IFC Judicial Board. The IFC Judicial Board makes a recommendation to the OFSL and the results are (usually) co-signed by the IFC Judicial Board Chair and the Director of Fraternity and Sorority Life. All other councils have an administrative hearing with Director of Fraternity and Sorority Life. Chapters may appeal to the Executive Director of Student Affairs Administration.

• Most complaints or incidents involving IFC, NPHC, NPC, or MGC are received by the Department of Greek Life directly or forwarded by Student Life or Student Activities, etc. When a complaint or incident report is received, the Department of Greek Life has responsibility to address these. Normally, serious cases such as sexual harassment, sexual assault/rape, sexual abuse, hazing, illegal drugs or the joint
involvement of a recognized fraternity or sorority and non-Greek recognized student organization, and those cases, in which the possibilities of both individual and organizational violations exist, will require an investigation prior to charges being issued.

The University Greek Judicial Board hears alleged violations of University Student Rules, determining hearing results, and issuing university sanctions. Appeals of sanctions issued by the University Greek Judicial Board are heard by the Assistant Vice President for Student Affairs or his/her designee.

- Our process involves peer review which is aligned with the same way we do student groups BUT greeks have a separate board as do the residence halls and then “students at large.” Halls and greeks are the bulk of our conduct cases so we like true peers to work it through since this is their community.

- There is no special provision for fraternal organizations. On paper it’s a simple process. The dean of students (or delegate) conducts an investigation and if he/she/they determine that there was a violation they have the authority to assess a sanction. The organization has the right to appeal to the VPSA. In practice, of course, the investigation is larger or smaller depending on the alleged violation and in the case of organizations that have alumni advisors and/or national organizations, there will be additional people involved in the investigation process.

- Addressing conduct violations by a fraternal organization can have a separate process here. We have a Greek Community Standards Board made up of IFC and Panhellenic members that would handle especially chapter versus chapter incidents. They could also handle allegations of relatively minor violations within a chapter. Allegations of major violations (hazing, alcohol/drugs, etc.) by a chapter are handled through a Major Default Hearing process. This board is made up of faculty, staff and students and is used when a chapter may be in violation (default) of the Recognition Policy (recognized by IFC/Panhell and the college and is required of chapters) and/or the Exclusive Use Policy (the policy that grants a chapter exclusive use of a university owned house).

A chapter could be subject to the college’s standard Integrity Code process although we have generally used that when individual members of a Greek organization are alleged to have been in violation rather than the chapter itself. It could be used though in the same manner that this process has been instituted when an athletic team or recognized (by student government) student organization is alleged to be in violation of policies.

- Disciplinary procedures are initiated on individual or organizational behavior upon receipt and analysis of an official incident report or valid complaint. The Dean of Students investigates to determine if there is sufficient cause to proceed with disciplinary action. Should sufficient cause be determined, the Dean may conduct an administrative hearing with the concurrence of the student; otherwise, he or she
assigns the case to a judicial council or board. The Greek Judicial Council members are appointed in accordance with the National Pan-Hellenic Council, Interfraternity Council, and Panhellenic Council constitutions.

• Fraternal organizations are held to the same conduct standards as any other recognized organization at the College. When addressing alleged conduct violations by an organization, the College’s chief judicial officer (Associate Dean of Students) will determine the appropriate venue (Administrative Hearing, College Conduct Board Hearing, IFC Judicial Board, PHC Judicial Board, etc.) for adjudicating the matter. This decision is informed by the severity of the allegations. Also, when employed, PHC and IFC judicial boards make recommendations to a college judicial officer and do not have final say over consequences for a fraternal organization found responsible for one or more conduct violations.

**Is the process for fraternal organizations different from other student organizations? If so, briefly describe how it differs.**

• The process for fraternal organizations and other organizations is the same. The only real difference is in the jurisdiction that the University has over fraternal organizations. All other student organizations are funded through student senate, receive University funding of some sort, and as a consequence, are almost always under the reach of the Code through the “University sponsored or supervised events” clause. Fraternal organizations do not receive any such funding. As such, organizational alcohol violations within fraternal organizations do not fall under Code or the jurisdiction of the University. Presently they are handled through their council’s judicial board; a composite of 5 current/past presidents.

• No this is the same process we use for any corporate conduct case. The only real difference is that we attempt to work closely with alums and international hq staff.

• Ours does not in terms of the process we follow when a fraternity has been accused of violating the Code of Student Conduct.

• Yes. The process is different. All organizational conduct issues are handled through the Office of Student Organizations. (The Student Organizations Manual is found on our community standards website). All fraternity and sorority cases are heard through the OFSL. Fraternities and sororities are expected to adhere to the standards of the Office of Student Organizations (minimum GPA for membership, attendance at mandatory risk management training, roster updates, etc.) and then also adhere to fraternity and sorority standards as well. The Student Organizations Committee is the appellate board for violations of the Student Organizations Office.

• The only difference with fraternal organization and other student organizations is that there is a separate board that hears organizational conduct cases for fraternities and sororities (University Greek Judicial Board). All other student
organizations have organizational conduct issues heard by the Student Organization Advisory Board (SOAB).

• We maintain a different process for Greek organizations because they do receive benefits (i.e. houses that are dedicated to their members, full-time college advisor) as a result of being Greek and the value on brotherhood/sisterhood calls for a level of accountability to each other and the institution that is generally unique to this student sub-community.

• The process itself is virtually the same. The difference is that we have a Greek Judicial Council that hears the case and makes recommendations to the Dean of Students on the findings and decisions. We would use our regular Judicial Board for cases involving other student organizations. In all cases, including Greeks, the organization can participate in an administrative hearing with the Dean and accept the decision from the Dean or elect to go to a hearing.

Should the process be different for fraternal organizations? Explain why or why not.

• The answer to that question, for me, is yes and no. As a conduct officer, the investigatory processes and adjudication of any code violations should always remain consistent. I always feel a great responsibility to protect the integrity of an investigation and the integrity of the process; treating groups differently jeopardizes the integrity of the process. With that said, the fraternal organizations are private corporations, governed by rules outside the scope of the University. As such, effectively communicating with national/international HQ staff during the preliminary investigatory process/adjudication process is important. Given the constraints that I currently work under, particularly as it relates to alcohol within the fraternal organizations, partnering with HQ staff is critical.

• I don’t think the process for fraternities should differ from the process used for other recognized student organizations.

• I am in the yes and no camp. I believe that the process should be the same in that all student organizations should face the same opportunity to present information, do investigative work, and receive educational opportunities from learning experiences. However, I believe that because fraternities and sororities are values-based organizations, the expectation for these organizations to meet expectations can, and should be, greater. I have worked at institutions where the administration of fraternity and sorority conduct is conducted through the conduct or community standards office without a partnership with the fraternity and sorority life office or staff; this has a hindering effect on the outcomes. Basically, if the conduct officer or hearing board is not trained well on risk management policies or chapter operations it makes efforts challenging to modify behavior. Similarly, if the judicial officer does not have an understanding of fraternal organizations and does not partner with the
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OFSL to learn or understand, then the chapters view the two officers as adversaries and not collaborators. The two should work in conjunction, in whatever arrangement that works best at the institution, to improve the culture of fraternity and sorority membership behaviors and provide the best services to the students.

• I don’t believe that the process should be different - however there should be a significant difference in how (or how much) board members are trained specifically regarding fraternal organizational dynamics, advising expectations, specific policy differences and in some cases inter/national policy requirements. There are very unique things that alumni and inter/national organizations can do with a local chapter that cannot be sanctioned by (or would probably not be thought of) by a group of advisors/faculty/or unaffiliated students on a general board. I also believe that in order for fraternity members to effectively hold their peers accountable – fraternity men and women should be a part of the peer group/hearing board. In some cases, the use of an “all-university board” does not take into account that their own behavior can be changed by being a part of the accountability process.

The biggest “X-factor” in terms of the process is that it must be consistent and fair across all student organizations. Transparency in how organizations are treated from the onset of an investigation through an appeal process is critical. There should not be a question in anyone’s mind as to what can “procedurally” happen next and how the accused can prepare their case.

• I think a single process makes the most sense for policies and regulations that apply to every organization with some sort of process within the governing bodies for rules that are specific to fraternities and sororities. We don’t have houses or any kind of designated space for our groups so there are relatively few special circumstances other than recruitment processes.

• I believe the process should be the same in terms of due process, etc. A unique hearing board for Greek organizations can be very helpful because the understanding the culture of the organizations is important in reaching good decisions and there are unique aspects to the sanctions that can and should be imposed because of the residential nature of the organizations. On our campus, the Greek groups own their houses, but they reside on property that is owned by the University and leased to them under a long term contract. That gives our university important leverage in determining what happened in terms of the house and those residing in it when there is a serious infraction on the part of the chapter.

• As is the case with many campus policies and processes, there are pros and cons to permitting fraternal organizations to hear cases. As long as fraternal organizations found responsible for conduct violations receive consequences in accordance with the guidelines for all student organizations, using an IFC or PHC judicial board does provide for firsthand learning experiences, fosters self-governance, and promotes standards and accountability within the fraternal community.
Sure, I can see the value of peer influence and self-governance in that, as long as the admin always maintains discretion to track a major violation away from the Greek Board as appropriate, and that the finding and sanction of the Greek Board is ALWAYS a recommendation to the dean or conduct administrator. Trust, but verify. And, train, train, train that board.

This is a good example in my mind for the NCAA analogy. Say to the IFC, you have a shot at self-governance, but if you blow it, we not hesitate to step in. This was message that USC tried to send to its fraternities earlier this year but they didn’t really get it.

What is different today about the relationship between universities and inter/national fraternities (IFC, NPC, NPHC, and Latino/a and Asian fraternities) than 30 years ago? (Question asked legal issues/risk management group only)

I think there are several stark differences. The first is the extremely enhanced concern about liability and risk management. The second is the wide diversity of organizations represented on campus with the inclusion of organizations representing specific ethnicities in addition to African American students and alumni. This represents a broadening of the student population on campus. In addition, I think that the student institution relationship has changed so much that this has had an impact on the relationship between institutions and umbrella organizations. That said, I am not sanguine about the ability, or with some organizations the interest, to improve and support students and organizations in their purview. I also see the control of student government and similar organizations by a cabal of IFC/NPC leaders lessening on many campuses from what it was 30 years ago, actually 40 years ago.

It was rare 30 years ago to find that universities and/or nationals could be held liable for the actions of individual chapters or members. Today, that is much more commonplace. Given that, the question is whether liability arises similarly for each, or disparately? The answer is both. Failure to promulgate AND enforce reasonable policies can result in liability. But, nationals face liability for failure to train, whereas colleges face it more frequently for negligent supervision. These are similar, but not identical pathways to liability, imposing as they do different responsibilities to meet the duty of reasonable care. They also cross occasionally, depending on the facts of a case or association law of a jurisdiction. That means neither nationals nor colleges can be sure of a commonality of interests in court. Sometimes, a college can plead in a national as a co-defendant, or a national can plead in a college. Sharing the pain, if you will. Add the role of alumni chapters and house corporations in supervision and as landlords, and you have a third layer complicated even more when alumni advisors (formal or informal) or house corporation officers also have an institutional role.
• The fear of liability in an increasingly litigious society has had the effect of pushing colleges and fraternities apart and leading to more finger-pointing, particularly in high-stakes cases (though I doubt that’s the sole cause of that dynamic).

In today’s litigious society, should universities and inter/national fraternity headquarters collaborate in investigations and conduct processes? What legal and/or political issues might inhibit or prevent collaboration? What legal and/or political benefits might be found in collaboration between the university and the fraternity headquarters?

• I absolutely believe they should. There is somewhat of a similarity between the relationship between students and parents/schools when they were kids a long while ago. If you got punished at school for a misdeed, you were gonna get even worse at home. This has faded in society and in the relationship with fraternal organizations. I do understand the short-term financial hit that comes to an organization if they disband a chapter but the image, and long term impacts are much worse unless they support the institution and cooperate and collaborate in investigations and sanctions. This is not to say that sometimes it is the institution which falters due to lack of interest, lack of qualifies staff, etc.

• No. The assumption of a commonality of interests is fallacious. Therefore, it may behoove a national to find evidence of college negligence, while it may behoove a college to implicate reckless or careless actions by the national or alumni chapter. If so, the investigation loses its objectivity and becomes instead a high-stakes game of pin the blame on the other defendants. Frankly, nationals are not often well-equipped for investigations, and their remoteness and the presence of chapter consultants can taint evidence. I’d prefer to have them out of the way in the aftermath of the crisis, ratifying that the primary relationship is that of the university and its students. Nationals are not adequately staffed today to effectively supervise and train their chapters, actively manage risk through meaningful supervision, or conduct investigations. Why would a college want to partner with an enfeebled entity with uncertain aims? The national might also suspect the college’s motivations. Sometimes, a national is looking to carve itself out of liability, by pointing at the chapter as a rogue agent. Other times, the national is looking to show its chapter is blameless, knowing that any blame laid on the chapter will likely be imputed to the national. If a national is looking to distance itself from its members actions, it may be a priority for the college to support its students, or the college may also want to find some distance from the acts of its students. With some many overt and hidden goals, complicating the crisis with joint investigations cannot be better, easier or more effective.

The only benefit may be in the disclosure and sharing of evidence, where one party finds critical information that is inculpatory or exculpatory. Still, this information will likely come out in discovery (if one party does not bury it), so the collaboration
would only help to prevent either party from withholding evidence needed by the other party. Too many conflicts of interest are present or potentially present to make investigation collaboration a workable concept. I can see a national participating in a campus conduct process, beneficially, but usually only where there is no realistic threat of litigation implicated. Communication should flow well to coordinate national and campus conduct actions, but they should overlap and be mutually reinforcing.

• It strikes me that both analogies are somewhat flawed. I believe that some degree of collaboration is appropriate. I see the relationship as similar to that of a campus and the NCAA when considering allegations of wrongdoing in an individual sport.

The concern for nationals is that the courts have been far more hesitant to assign responsibility to nationals than to local chapters or campuses, but with greater involvement comes the potential for greater liability.

• I would only add that the courts are not the full story. I see settlements with nationals on a regular basis, so to argue that the courts don’t impute chapter liability to them is true, but a limited view of the entirely liability picture. I also don’t think the nationals settle to avoid being dinged by the jury (they would likely win), but to avoid the tipping point that would and will come from having several precedents against them.

• The courts can only ever be a part of the story: here at XXX we see so very little progress past the point of settlement discussions - but we see A LOT of settlements. (Obviously we do not insure national fraternal organizations and only very indirectly ever work with local chapters, so my comment refers more to situations involving the schools themselves.)

• Chapter consultants are a useful tool to pass along ritual, grow membership and encourage colonization. They are comparatively useless as instruments of risk management. Steve knows of some nationals that “get it”, but I am not so generous (by the way, many of the sororities do, but men’s fraternities are my subject here). Some get it conceptually, either because they don’t want to be sued into oblivion, or because they really care for their members, but to me, getting it isn’t wrapping ones brain around the need (duh!), it’s operationalizing meaningful risk management. Few nationals embrace that strategically and effectively, across the broad spectrum of risk issues, with curricular accountability.

• I also wonder who we should expect to be risk management agents for the nationals. Many chapter consultants were only the year before themselves undergraduate students and aren’t the most appropriate people for the nationals (or universities) to rely upon to offer real leadership on risk management--especially given the relative independence with which they work.
I do agree that chapter consultants, most a year or two out of school are worthless. I have worked with many over the years when I was an administrator in charge of Greeks and they were, with few exceptions, useless. One problem is that universities usually hire these guys as Greek advisors on campus after a year or two on the road. I cannot tell you how many of our grad students over the years were consultants and come to us and say OMG, I cant believe they never taught me X, Y, or Z. When we talk about tort law in my HIED Law class they blanch and run back to their chapters and nationals with the gloom and doom. I think some nationals do get it, but their resources are so limited that they do not have time, money or personnel to get it right on a consistent basis. Also, If they are headquartered in Indy and their consultants are useless in giving or getting information it seems incumbent upon institutions to work on these with them and with their chapters.

Collaboration (at least outside the litigation arena, which I gather is not all you’re asking about) is appropriate and worth striving for. Unless you believe that all nationals have no interest at all in anything other than making the Greek world safe for bad behavior and then covering it up after the fact (which I don’t, even though I am also something of a cynic), there is something we should be able to work on together in a proactive/preventive way. While the local alums have rarely been a positive influence in my experience, I have seen nationals that "get it," even if they haven’t been terribly effective in doing something about it. But at least it’s something that might be possible to build on.

And even in the conduct investigation context, I think there is some benefit to fraternities that cooperate, at least in the form of avoiding a detriment: If they don't cooperate, things will likely go badly for them in the internal process. If it is a high-stakes case, the fear of liability probably will keep them from cooperating, but, as far as I’m concerned, that’s not a reason for us to proceed any differently.

The groups were asked to respond to the following question and response from a member of the legal issues/risk management group: In today's litigious society, should universities and inter/national fraternity headquarters collaborate in investigations and conduct processes?" No. The assumption of a commonality of interests is fallacious. Therefore, it may behoove a national to find evidence of college negligence, while it may behoove a college to implicate reckless or careless actions by the national or alumni chapter.

At first glance my initial thought is - this individual clearly didn’t get an invitation to join the fraternity he wanted...

The commonality of interests of Universities and inter/national HQ is not based on assumptions but on similar foundational principles and a history of working in partnership. The philosophies and missions of student affairs/universities and Greek letter organizations are similar. Greek organizations were founded and continue to exist for a number of good reasons. When people challenge the existence of Greek letter organizations it is not because of competing goals with
higher education, but rather a divergence from their founding principles and objectives; principles which mirror those of higher education. While Universities and Greek Letter organizations have changed over the past 100+ years, I don’t find a divergence in their commitment to the students.

With that said, I find it hard to take exception with many of the supporting arguments the legal scholar used. It is important to acknowledge that the legal landscape, and certainly the law’s interaction with higher education, has drastically changed. University negligence and liability has vacillated within the courts, and in my opinion, is approaching a heightened level that almost equals, and in ways exceeds, that of the in loco parentis era. Inter/national HQ’s are facing a similar fate. There are competing legal issues between Universities and Greek Letter organization, and it would be naïve to think otherwise.

Does the common interest in the student for Universities and Greek organizations outweigh the competing legal issues? In my opinion, most of the time (70%) the common interests are more important than the competing interests. I still feel confident sitting down with most of the Inter/national HQ representatives, discussing the nature of the incident, developing a plan of action, and coming to an agreement about how to best assist that local chapter. Does that mean we work together on every issue, like the investigation, no. I know the most benign issue can lead to a potential lawsuit, and conducting a thorough investigation is always important. But that doesn’t preclude us from working together, and that doesn’t preclude the process from working more efficiently for our students.

Reciprocally, there are a few organizations that are hard to partner with, and organizations that I do not trust. And unfortunately, the reality is that there are situations where the legal responsibility outweighs the educational outcomes (e.g. student death). I wouldn’t go so far as to say these are the exceptions to the rule, but they are in the minority. Perhaps the legal scholar was trying to limit his response to only those kinds of ‘crisis’ situations. If that were true, it fails to recognize a great deal of the educational work that we do on a daily basis.

• I think an institution can still protect its own interests through partnering with a national organization to conduct an investigation (we need to see the National office as an ally, not an adversary, if we are to be successful before, during, and after an issue with a fraternity). I would like to believe that the organization, and the institution, ultimately have the same (or sufficiently similar) goals and if either (or both) are going to be liable for any actions of omission or commission, my guess is their investigations will not be determinative for the purposes of establishing negligence or liability. Then again, I’m not an attorney, and I don’t plan on TV either.

This sounds like a person with a prior bad experience with a collaborative investigation that may not have been managed well. I think collaborations are still the desired default, but they should be entered into with an open and inquisitive
mindset and should not compromise an essential objective or interest of the University. If it does (or if it might), then the possibility of an independent investigation or an altered process should be explored.

• We conduct parallel investigations and may get them to share findings but it is rare that they do. We share ours and can be faster than the national. Often we perceive them as taking too long and we tend to move faster.

• I have to agree – in most of my experiences the interests of the national did not align with the university. It would make sense that both entities share an interest in protecting the students. Unfortunately, the reality has been much different. In the situation I referenced earlier, the family of the student who died sued the local chapter and the national, but not the university. The national brought the university into the suit – clearly conflicting interests. In another situation, the national didn’t want to share information they learned with the university until the university shared first. We might have been wrong, but it did feel as if we would only get confirmation of what we already knew.

This is an area that often frustrates me. Even if a national is strong and truly shares a concern for student welfare, both entities have a responsibility to protect against legal action and to position themselves well in the event of a lawsuit. Therefore, legal advice will be against a partnership. And as much as I believe that the lawyers advise and administrators decide, in this case, we go against this advice at our peril. While your responder paints a particularly dismal picture of national staff/volunteers, it is accurate in some cases and that works against an effective partnership as well.

• Certainly if the relationship with a national office is strained and previous or present interactions lead me to believe that the national staff is only concerned with its welfare and not that of the students or the institution then distance is wise and we institutionally do what we need to do and inform them of our outcomes.

So far in my experience though on a small liberal arts campus, our relationship with the national staff has been overall constructive and positive. When there have been significant incidents that warrant an investigative process, we do collaborate with headquarters and allow them to also conduct a process as we are conducting our own. There has been more than one occasion where the process and outcome of nationals efforts are as effective, if not more so, than we might have done. In that case, we have affirmed our support for their sanctions and cooperate in their accomplishment.

In other situations, we have conducted our own process and coordinated on the eventual sanctions with nationals, implementing both fraternal and campus sanctions. There has been one time where we finally decided the national staff was not going to be of assistance, based upon a few years of experience with them, and
just informed them of our outcomes and actions. Eventually that chapter folded due to the lack of adequate national support.

I very much understand the more legalistic perspective on this relationship and acknowledge there are times when we need to go that direction in order to best serve our campus interests. To date though, that has not been the norm for my situation.

• I think it comes down to the appropriate roles of the different parties. I still believe that close collaboration between the national fraternity and the institution is a desired method of working through these cases. However, I never intended collaboration to mean that the fraternity staff is actually a part of the investigation. We have had cases before where the national conducted their own investigation at the same time we were conducting ours. Although that is a bit awkward, I would not suggest we try to prevent it, unless they are clearly interfering with the institution’s efforts. It is the university’s duty and responsibility to conduct a proper investigation. After all, they are our students and it is our institutional standards that we will apply. My desire is that we seek, right at the beginning of the process, an agreement to collaborate and communicate. We agree to keep the fraternity updated on our process and they agree to keep us updated on anything they learn. As you know, in the midst of an investigation, there are limits as to what we can and should actually share. However, we can agree to share our findings with the fraternity and to discuss our intended sanctions with them prior to implementation. We can attempt to reach a common ground on what the outcome should be - and there can be some give and take as appropriate.

In addition to avoiding liability, we must remember that the fraternity is almost always motivated by how the outcome will impact the fraternity financially, i.e. who will pay the house mortgage while the fraternity is suspended. That concern is rarely something they have in common with the university.

Clearly there can be cases where we learn that an adversarial relationship is developing, i.e. a fraternity trying to bring the university into a lawsuit. At that point, unfortunately, the collaboration stops. I have served as an expert witness in three cases involving death or serious injury in which family members sued the fraternity and the local chapter and its members, but did not sue the university.

• While I recognize the reality of protecting the institution/national org from legal action, I am really disappointed that this has become the default reaction by most organizations. I thought we were all in this for the students and their education. If we are doing things right on the front end, and addressing the incidents that do come up appropriately aren’t both the institution and the national organization better off. The comment, “Nationals are not adequately staffed today to effectively supervise and train their chapters, actively manage risk through meaningful supervision, or conduct investigations”, was really concerning. It’s a cop out. Kind of reminds me of a slum landlord – “I don’t have the resources to fix the place up and
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meet appropriate living conditions, but I'll take your money and you can live there, of course if anything bad happens then you are on your own.”

In my experience, whenever the national office has been a partner in addressing situations there has always been a more positive outcome for the students, the institution and the national office. If we do the training, if we address the small stuff and keep it from becoming big stuff, we are all limiting our exposure to liability.

The level of involvement by the national office should vary depending on the nature of the incident. I am not suggesting that a national rep come to campus for every incident. Sometimes just their reinforcing that the members need to cooperate with the institution in the investigation, provide statements, reports, and other documents, etc. is all that is necessary. In more serious situations perhaps a national rep and a college official jointly conduct interviews. Ultimately if the institution and the national office can have a united front in addressing the incident, this is when we have the greatest impact.

Maybe I am still operating in a dream world, but collaboration is still what I strive for.

• Personally, as an attorney, I think this is a pretty narrow-minded view of the process. While it’s true that there might be divergent interests during an investigation, I think it’s inappropriate to believe that the University and the organization can’t work together to investigate the incident. The University is obviously going to do what it needs to do and the organization will do the same. However, if they collaborate, they might actually find that, more often than not, they’re on the same page. To be honest, it sounds like the strongest voice(s) on the higher education legal issues group had a previous bad experience with what was described. It’s hard to tell if that came about because the University didn’t work with the organization so the organization went into "defensive mode," or if the University and the organization were truly at odds and it precipitated a negative outcome. In any event, I think this is a sad statement on how Universities perceive Greek organizations.

An article entitled, “Rethinking Fraternity and Sorority Advising: The Role of Coaching and Technology” appeared in the Fall 2011 edition of the NASPA publication, Leadership Exchange. The article was provided to the members of each group and they were asked to respond to the following question: Do you believe such a model would work?

• I find the authors' understanding of Chapter Advisors and HQ consultants to be fairly accurate. Where I disagree is with the article’s assessment of Greek Advisors (and I have never worked in a Greek Life Office). I think many Greek Advisors meet with individual leadership from chapters on a regular basis, and while they are concerned about advising the overarching councils and systemic issues, I find they
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too regularly advise individual students and individual chapters. I would argue that the best Greek Life Offices have in their job descriptions that very requirement.

• With respect to my current institution, the article did not address a number of other resources that individual chapter and student leaders have at their disposal. Many of the student leaders, particularly the members who are on their chapter’s executive councils, interact regularly with members of their Housing Corporation/Housing Board (e.g. all of the Chapter Houses are privately owned at KU, and all have Housing Boards which typically consist of 5-7 alumni). In addition, all fraternities at KU have a House Director, or what was once called a House Mom. The Housing Boards regularly meet with the institution (every month), but are also advised by the Inter/national HQ as far as specific organizational policies, expectations, etc. The House Directors also have multiple trainings; one developed by the institution as well as a training through their Inter/national HQ.

Before implementing a new model of Fraternity and Sorority Advising, my question is are we using the people in the current structures and roles in the most effective ways? Again, I believe that the best Greek Life Offices interact with individual chapter and individual students on a much more frequent basis. In addition, I think the best offices are offering leadership programs to their students in Greek Life; freshman leadership council, sophomore leadership council, officer training, etc. Can a single individual be effective as a Chapter Advisor, and if so, are Universities effectively training said individuals? I align with the article in that I do not believe it should be left to a single person. I do believe there are far too many issues, and that a full-time staff member who has other responsibilities cannot adequately address the needs of the Chapter on a volunteer/part-time basis.

That still leaves Housing Boards and House Directors. To me, this is where I do not believe we need to create a new system. I often find Housing Boards to be some of the best intentioned and most willing participants but consistently undertrained and underutilized. We already have a group of 5-7 alumni would be willing to extend a team coaching style with a chapter but they haven’t been given the resources or skills to do so. Moreover, and one of the aspects of the proposal in the article which I think it overlooked, is that the best Housing Boards have members who are not alumni of that particular chapter or organization; those members offer perspective that extends outside of the organization. Lastly, I think Housing Boards understand the responsibility/liabilities that they assume; they understand their relationship to both the Inter/national HQ as well as the University. If we were to institute a staff/alumni advising team, who trains them...who do they answer to?

In short, I think the idea of team coaching is good. At my present institution, I think the fraternities and sororities need to systematically evaluate what resources they currently have and to potentially use them in more efficient and effective ways. I don’t think they need to reinvent the wheel...
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- Interesting idea. In some ways, I think good fraternity/sorority advisors (or any good student organization advisor) should approach their role more like a coach anyway. However, having many coaches advising students in an organization is an interesting concept. There would need to be a clear “division of labor” – so to speak – between the role of coaches and the student organization advisor, and a communication pathway between these groups as well as with campus staff and someone from the national organization. I could see potential for this model to produce too many cooks in the kitchen and more advisor-like individuals who may be at risk of inappropriately controlling the activities of the organization. Would there be value in the fraternity/sorority life professional to pull a group’s individual coaches together once a semester? I wonder how to coordinate coaching, especially if there is conflict within the group and coaches are encouraging different members to act in different ways that do not complement each other. To what extent would there be consistency in messages among coaches, and to what extent is that consistency (or lack thereof) good or bad?

One point the article doesn’t mention, would these “coaches” be individuals who, like student organization advisors, would be regarded as a “Campus Security Authority” under the Clery Act and therefore have the responsibilities of CSAs? I would probably error on the side of caution and assume they are, then provide annual CSA training accordingly.

I am not sure how a coaching model could change the relationship with a national office. Perhaps if the training is coordinated by the national office, the national office could have a specific point of contact for coaches should any individual coach have concerns. I think a campus contact would be important as well, and this would need to be co-coordinated between the campus and the national office. I could see that the national organization could have more opportunities to gain insights into the group if they have coaches beyond an advisor who might offer their perspective and information. If a conduct case were to develop involving the group, I think role clarity and communication among coaches and the advisor (as well as with the local chapter leadership and national office) would be critical. Coaches would probably need some guidance about the conduct process for student organizations and some specialized training on how to help students understand what’s appropriate and what’s not when/if a conduct issue emerges (coaches would also need to understand their role in the process, even if no formal role exists). Again, I think the role of training would be invaluable in this area because some well-meaning coaches could lead individual students astray in the advice they provide, so providing coaches with training and/or resources in this area would be important should a campus move toward such a model.

- Well I must confess I am intrigued and very much appreciate what I see as a fresh approach to working with chapters, alumni, undergrads, advisors – even nationals-I am willing to try anything! To be honest, I am not sure I am one of those ssao’s willing to play a highly involved role as opposed to empowering my staff to play the roles recommended in the article – we just have work at higher levels of the
institution (that is no slight to the importance of these issues with greeks but I hire people to do this good work with them) so not realistic to expect me to invest that much time. Bottom line – the key is TEAM and when a national or alumni group or even undergrads won’t work with you then it is all going to fall apart.

• The concept of more specialized "coaches" that work with individual student leaders in their respective roles has merit. This is exactly what I did here at MSU in our advising with our Student Association (Student Government). We had a single advisor model when I got here. Because our SA is a very large governance and programming body with considerable influence and involved in a number of potentially high liability activities, I determined that our advising was inadequate and not serving our students or the university. I replaced it with a four advisor model. I had one overall advisor at the Associate Vice President level. Then I had three assistant advisors: one who worked with legislative issues (he attends every Student Senate meeting); one who works with the treasurer (my MBA, CPA Assistant VP); and one who works with their programming. The overall advisor then convenes the entire advising team periodically to assure that we are all on the same page. It has worked extremely well and the Student Association has thrived under this model.

However, the biggest difference between this and the model in the article is that these advisors are not volunteers alums - they work for the university. I do have concerns about the alumni volunteer coaching model. There is a great deal of additional work involved in assuring that every chapter has their team in place and that they are all trained and working positively within their roles. I do not think it is realistic to expect that non-Greek chapter alums are going to be very interested or motivated in these roles. They may also not be fully accepted by the student leaders. The vetting process of assuring that you have the right attitude and motivations in place would also be challenging. Mike makes a good point - it is often the culture that we are working against. Often these alums are the product of that culture. Some of the alums see the light about the changes that need to be made in the culture while some work hard to try to hang on to it. Discerning the difference between these two is hard.

I have fraternities now that have very positive engaged alumni groups and the chapter generally performs better when that is the case. But I also have chapters that suffer from lack of alumni engagement and those who suffer from negative alumni influence. The challenge to assure a positive alumni coaching team within each of those environments would be the challenge.

• I guess I’m not jumping up and down to have this model implemented across Greek Life. It’s not that I oppose it and wouldn’t stand in the way of it happening on my campus but for some reason it feels like a lot of effort for something that may not get at core challenges to a Greek community. And as pointed out in the article, many of our sororities have been following this recipe for a while. In that light, I haven’t necessarily seen a significant difference in the development of sorority leaders.
versus fraternity leaders versus other student leaders. When I have the most significant challenges with a chapter, it is often not about the student leadership but the culture of a chapter and I don’t see one-on-one interactions with alumni necessarily being the most effective vehicle for dealing with that. In fact, the alumni can sometimes be part of the cultural challenge.

• Conceptually the approach sounds good, but I struggle with the practicality of implementing this approach on individual campuses without some type of national effort or initiative. If we accept the assumption that Greek advisors are entry level professionals that are already overstretched in their existing role, recruiting and training volunteers to implement this coaching model seems to be an unrealistic expectation. I also don’t see the development of online training resources as a realistic task for an individual campus. As was pointed out in the article, some sororities already attempt to use such a model, but there is little consistency across chapters in how this is approached, and getting IFC as well as Panhellenic to agree on a consistent approach has been a monumental effort on other Greek issues. I appreciate the idea of making each advising role more narrow and specific (e.g. accountant advises treasurer, business owner advises president, etc.) could be more attractive to volunteer advisers, yet in my experience with sororities that use this model, there is so much turnover in these roles you rarely get a group that can work in concert with each other effectively. I agree with the concept and like it, but to be effective it will need significant support from national organizations.

• As to the model for Coaching – Training – Traveling Consultant – Cheerleading – Flag waving – Baton Twirling: All similar words, to me, and I'm not part of the “training crowd.” To me, a central problem remains with “who” is being coached/trained, etc., and on “whom” all responsibility is placed by nationals to implement risk and crisis management policies. I’ve no basis to believe that coaching such persons, individually or in groups, versus the existing models, such as they are, will make any significant change.

• My initial reaction to reading this article is this is a far reaching pie-in-the-sky proposal that will never work because of the diversity of the campuses on which fraternal organizations exist, the diversity of fraternal organizations themselves, the resistance which student affairs as a profession applies to any new idea (while they may give lip services to accepting and using a new model such as Learning Reconsidered for instance, it takes a generation or more before the idea seeps down from the large state universities and elite private institutions to the small public and private colleges). That said, I think that the proposed model as a larger plan to merge all of the aspects of fraternal oversight, advisement, etc. IS a well thought out comprehensive approach.

• In theory, this sounds like a great approach, but in practice, I can’t imagine it would work out as described very often. It would require a great deal of commitment and work from people whose reasons for participating probably aren’t these and who probably aren’t really vested in making it work.
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APPENDIX II

The Continuing Problem of Hazing:
Balancing the Rights and Responsibilities of Students and the University

Dr. Brent Paterson
Associate Vice President for Student Affairs
Illinois State University

February 17, 2007
Stetson College of Law
28th Annual National Conference on Law and Higher Education
Clearwater Beach, Florida
Guidelines for Conducting Hazing Investigations

The content for this writing comes from the author’s personal experience and Conducting Student Conduct Investigations developed as a training manual by the Department of Student Life, Texas A&M University, in 1999.

While all of us would like to think that our prevention efforts will stop hazing on our campuses, hazing frequently occurs in our student organizations, in our residence halls, and in our athletic teams. The author posits that our students have been exposed to a lifetime of hazing-like behavior. From their childhood days of viewing slime wars on Nickelodeon, to listening to stories from their parents and older siblings about their hazing experiences, to Little League, Scouts, and athletic team initiations, to the popularity of current television shows like Fear Factor and Survivor, today’s students have been inundated with behavior that could be termed hazing if it occurred on a college campus in relation to joining an organization or team.

How will you know if hazing is occurring at your institution? It is rare that a student walks into your office and says, “I am a victim of hazing.” You will need to rely on the network of student affairs staff, faculty, police and others on a campus to be looking for hazing activity. Some signs of potential hazing include:

- Windows of organization’s house covered with paper or aluminum foil
- Resident advisor sees change in resident’s behavior (time in room, dress, etc) when known that resident is prospective member/candidate/new member of organization
Health center staff sees hazing related injuries

Faculty report students believed to be in process of joining a club, sports team, or fraternity/sorority involved in suspicious activity.

In the old days (about 20 years ago) when the author was a campus judicial hearing officer, you often learned of a hazing incident through an anonymous phone call or letter. The author detested anonymous phone calls or letters as a judicial officer. They never seemed to give you enough information to take action. But, the anonymous calls or letters often contained enough information for you to feel that something serious likely happened and a student or students may have been hurt physically and/or emotionally. Times have changed. Today, you are more likely to learn of a hazing incident from a posting on Facebook, MySpace or, perhaps, on websites like badjocks.com.

Regardless of the source of information, an institution cannot ignore knowledge of a hazing incident even if the information is unsupported. If the facts are sketchy like they often are in an anonymous report or rumors circulating on campus, you should initiate an informal investigation. An informal investigation involves inquiring with staff, students, and others about the alleged incident. You are attempting to determine if there is any validity to the anonymous report or rumor that would warrant further investigation. For example, staff might inquire about the rumor of a big party for the rookies on the rugby club at which the rookies were forced to consume alcohol.

A formal investigation is appropriate when the rumor, anonymous report, or sign of potential hazing is believed to be a reasonable account of an incident. A
formal investigation is also appropriate when there are verbal or written statements providing details of an incident that is reasonably likely to have occurred. Any formal report of an incident involving hazing-like activity made to institutional officials and/or the police should instigate a formal investigation.

There are multi-purposes for a formal investigation. An investigation is conducted to:

- Gather information and report detailed facts in connection with the reported incident.
- Provide the institution sufficient information to determine if the incident warrants appropriate institutional action.
- Determine jurisdiction (issuance of charges and hearing body) in accordance with institutional policies.
- Provide the hearing officer/board assigned the case with sufficient information to conduct the disciplinary proceedings.

Authority to Initiate Investigation

On the surface, determining the authority to initiate an investigation seems like a simple process. In reality, however, there are often several units within an institution who may have competing interests in the investigation. For example, if the incident involves an athletic team, does the team coach or athletic director have the authority to investigate? If the incident involves a recognized student organization, does student activities or judicial affairs conduct the investigation? What if the student organization is an honor society in the college of business? Does the dean of the college of business investigate the incident? If the incident occurred
in a residence hall, does residence life conduct the investigation? Are all investigations referred to the campus police?

It is recommended that these issues be resolved before an incident occurs. When the author was serving as Dean of Student Life at Texas A&M University, memoranda of understanding were developed between student conduct services in the Department of Student Life and other areas of the University – Student Activities, Commandant of the Corps of Cadets, Fraternity and Sorority Life, and Residence Life – that defined the role each unit would play in an investigation involving an incident affecting that unit. These investigations focused on alleged violations of the Code of Student Conduct. All alleged hazing incidents were referred to the university police for investigation regarding criminal offenses. The university police would determine if an incident warranted investigation by their officers if a potential violation of law was believed to have occurred. To the extent permitted by applicable law, information garnered through the university investigation was shared with the university police and vice versa.

Individuals who will be conducting investigations need to be trained in investigatory techniques, institutional policies and procedures, and fundamental fairness. Investigators may be faculty or staff. It is recommended that students not be used as investigators due to confidentiality. The investigator pool should be diverse in terms of gender, race, and background (Greek, athlete, etc.). The most important characteristic for an investigator is impartiality. An investigator must be able to be fair and impartial. An investigator should not have any direct or personal involvement with individual(s) and/or group(s) being investigated. An investigator
needs to be a good listener while being able to engage persons in meaningful discussions about the alleged incident. The three basic rules for an investigator are be prompt, be thorough, and be impartial.

Preparing for an Investigation

Before initiating an investigation, it is important for the investigators to prepare. The preparation begins by establishing an investigation file. The file should contain any original documents pertaining to the investigation. Original documents may include but are not limited to a written complaint, a police report, a report from the health center, and/or a residence hall incident report. Any additional evidence available at that time should be included in the investigation file. Relevant institutional policies including potential violations of the code of student conduct should be added to the investigation file. A log of the date and time of each investigation activity should be maintained and kept in the file. Notes from the interviews should be added to the file following investigation meetings. As new evidence is gained, this information should be included in the investigation file.

NOTE: Copies of personal notes, forms, and other non-evidence information related to the investigation (electronic and hard copy) should be destroyed after the final report has been submitted and accepted by the appropriate institutional official.

Before conducting investigation interviews, the investigators should determine the order in which witnesses should be seen. The logic behind the order is that the investigation should build from initial interview to final interview. The information gained in initial interviews should prompt questioning in subsequent interviews. Generally, interviews should begin with the complainant(s) followed by
the alleged victim(s). These interviews are followed by interviews with other students in the same situation as the victim, usually a new member of an organization or rookie on an athletic team. The next interviews should be with the organization officers or team leaders and their advisor(s) or coach(es). Finally, interviews should be conducted with the alleged perpetrator(s). Investigation interviews should be conducted with individuals not groups. It is recommended that investigators operate in pairs. In this way, the two investigators can compare notes to verify what they heard. It is not intended to create a good cop/bad cop opportunity for investigators.

Also prior to conducting investigation interviews, the investigators should develop a standard set of interview questions. The investigators should probe for specifics – What? How? When? Where? Who? Investigators should use open-ended questions that encourage the participant to tell the story of the incident in question. While a set of structured questions ensures that information is in comparable form for each party interviewed, investigators should be prepared to follow witness leads when unexpected information is mentioned.

Sample questions may include:

- Tell us why you think you are here today.
- Tell us what happened on (date).
- Describe for us what you saw, heard, felt about what happened on that day.
- Can you explain why someone would tell us that _____ happened on (date) and you/your organization were/was involved?
What typically happens during the initiation period for prospective members/candidates/new members of your organization?

Describe how your experience as a prospective members/candidates/new member differed.

Who could best explain to us what happened on (date)? Why? (Crane, 2006).

Investigation Interviews

The investigation interview begins with an explanation of why the student or other person has been asked to meet with the investigators. Basically, the person has been identified to have knowledge of, or been identified as a witness to an incident involving an alleged violation of the institution’s code of student conduct. The participant should be informed that if he/she chooses (has right to remain silent) to participate in the investigation he/she has an obligation to tell the truth. If he/she is a student, failure to tell the truth to the investigators (institutional officials) may result in disciplinary action. The participant is informed that information he/she provides to the investigators may result in disciplinary charges against individual(s) and/or organization(s) for violations of the code of student conduct. As such, information provided by the participant during the investigation interview may be available to individual(s) and/or organization(s) charged with violations of the code of student conduct as a result of the investigation. The participant should also be informed of the option of reporting the matter to law enforcement officials. Some institutions utilize investigation participation forms that present this information in writing to the student and ask the student to sign
the form verifying that they were informed and understand the reason for their participation in the investigation interview and expectations of participants.

One question that always arises is the presence of an advisor, support person, or attorney during an investigation interview. Unless otherwise specified by institutional policy, advisors and support persons, including attorneys, are not permitted in the investigation interview. Remember, that an investigation is just a fact and information gathering process. It is not a formal hearing. At this point no charges have been issued.

The investigators should explain to the participant the purpose of the investigation and how the investigation will be conducted. The purpose of any investigation is to obtain facts about what allegedly occurred, clarify issues raised by original documents and other investigation interviews, and to prepare a fair and accurate report regarding the alleged incident. The individual’s participation is important in gaining a thorough understanding of the alleged incident. The participant should understand that individuals also associated with the incident have been/will be interviewed. The participant may be interviewed a second time to clarify any information learned in subsequent interviews or to clarify discrepancies. Additional witnesses may be identified through information gathered from the interviews and these witnesses may be interviewed. Since some witnesses may be institution faculty, staff or administrators or persons outside the institution, it is important to remember that investigators have no authority to compel institutional officials and persons, other than students, to participate in investigation interviews.
Now you are ready to conduct the investigation interviews. Begin with the questions developed by the investigators. The author likes to start the questioning by asking the participant in the investigation interview to “Tell me why you think you are here today.” In order to compare the participants’ stories, it is helpful to ask some of the same questions of every participant. It is the author’s experience that if the story is too perfect, the group has likely concocted a story that everyone memorized. If the story has too many discrepancies, then the group likely was not smart enough to get a story together and everyone in the group is creating his/her own story. It reminds the author of the students who told the professor that they missed the test on Monday because they had a flat tire on the way back to campus from home and could not get it repaired until Monday morning. The professor sat the three students down separately and told each one that his make-up exam had only one question – Which tire was flat?

Completing the Investigation

Investigations can seem to extend forever and sometimes they do continue beyond what it necessary. When do investigators know that they have met with enough individuals and re-interviewed the appropriate persons? The extent of the investigation will be dependent upon the severity of the incident. A complex investigation may last several weeks or even months. The investigation may face delays because the police or district attorney is not willing to release relevant and important information that could affect the outcome of the investigation. An incident involving a serious injury or a death should be thorough, leaving no rock unturned. An investigation of a minor incident, i.e. forced to wear paddles around
necks for the pledge period, might involve interviewing only a few persons and be concluded within a week.

In determining when to conclude the investigation, the investigators should review their notes to determine if:

- All relevant facts have been gathered.
- All relevant witnesses have been interviewed.
- All relevant documents and evidence have been obtained.
- Any discrepancies and uncertainties exist in their notes.
- Merit in additional investigation interviews to clarify discrepancies and uncertainties.

The next step in the process is to develop a list of the facts and the data that supports each fact. If there were discrepancies in what was heard from the participants, then it cannot be established as a fact. The list of facts will be used in writing the report of the investigation findings. In the end, the determination to close the investigation is a “gut check.” Will continuing the investigation produce any new information that will determine the outcome of the investigation?

Investigation Report

When all interviews have been completed, the investigators produce a report on the investigation. The report is not a verbatim recording of statements made during interviews. It is intended to summarize the process of the investigation and to provide a determination of what likely occurred based on substantiated facts. The investigation report should include the following elements:

- Identification of individual(s) and/or organization(s) being investigated
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- Names and titles of the investigators
- Date investigation report submitted
- Source of original complaint, name of complainant, date complaint made, and to whom complaint was made
- Brief overview of the complaint (one paragraph)
- List of persons identified as potentially involved in alleged incident and whether individuals were interviewed
- Investigation log (names of persons interviewed with dates of interviews, identification of other evidence viewing/receipt and date viewed/obtained)
- Brief synopsis of the alleged incident based upon original facts and information gained through the investigation (clearly identify which facts were verified by first hand knowledge and the information that could not be substantiated).
- Additional information not directly related to the incident, but provides a sense of circumstances or environment in which incident occurred
- List of standard questions asked each participant in the investigation interviews
- Investigators’ conclusion (investigators are not determining if a violation occurred, but to extent possible indicating what happened as supported by facts)
- Appendices
  - Original evidence
Written statements from witnesses and interview participants, if chosen to make written statement

Documents from other investigations of same incident (national fraternity/sorority, residence hall staff, athletic department, police)

The institutional official(s) with authority to issue charges of violating the code of student conduct reviews the investigation report. The official(s) may choose to meet with the investigators to clarify information contained in the report. Then, the official(s) will determine if there is sufficient evidence to issue charges to the organization(s) and/or individual(s). Depending upon the institution’s conduct system, one administrative unit may handle individual discipline and another administrative unit may handle organizational discipline. When there is sufficient evidence for charges, the appropriate institutional entity issues the charges.

Conclusion

Investigations are a very important part of the disciplinary process at colleges and universities. In hazing cases, it is vital that complete and accurate information is gathered about the incident to support any disciplinary charges that may be issued to a student(s) and/or an organization(s). Persons conducting investigations should be trained in the process and be prompt, thorough, and impartial in the investigation. Collaboration with administrative units that have a stake in the outcome of the investigation requires a clear definition of roles in investigations. These roles should be defined before initiating an investigation and be supported by the institution’s administration. In investigations, the process is as important as the result. Failure to follow process may result in a finding that is
perceived as coerced, unfair, or predetermined. Impartiality in an investigation cannot be emphasized enough. Finally, investigators are not determining whether or not a violation occurred. They are reporting what likely happened based on known facts.