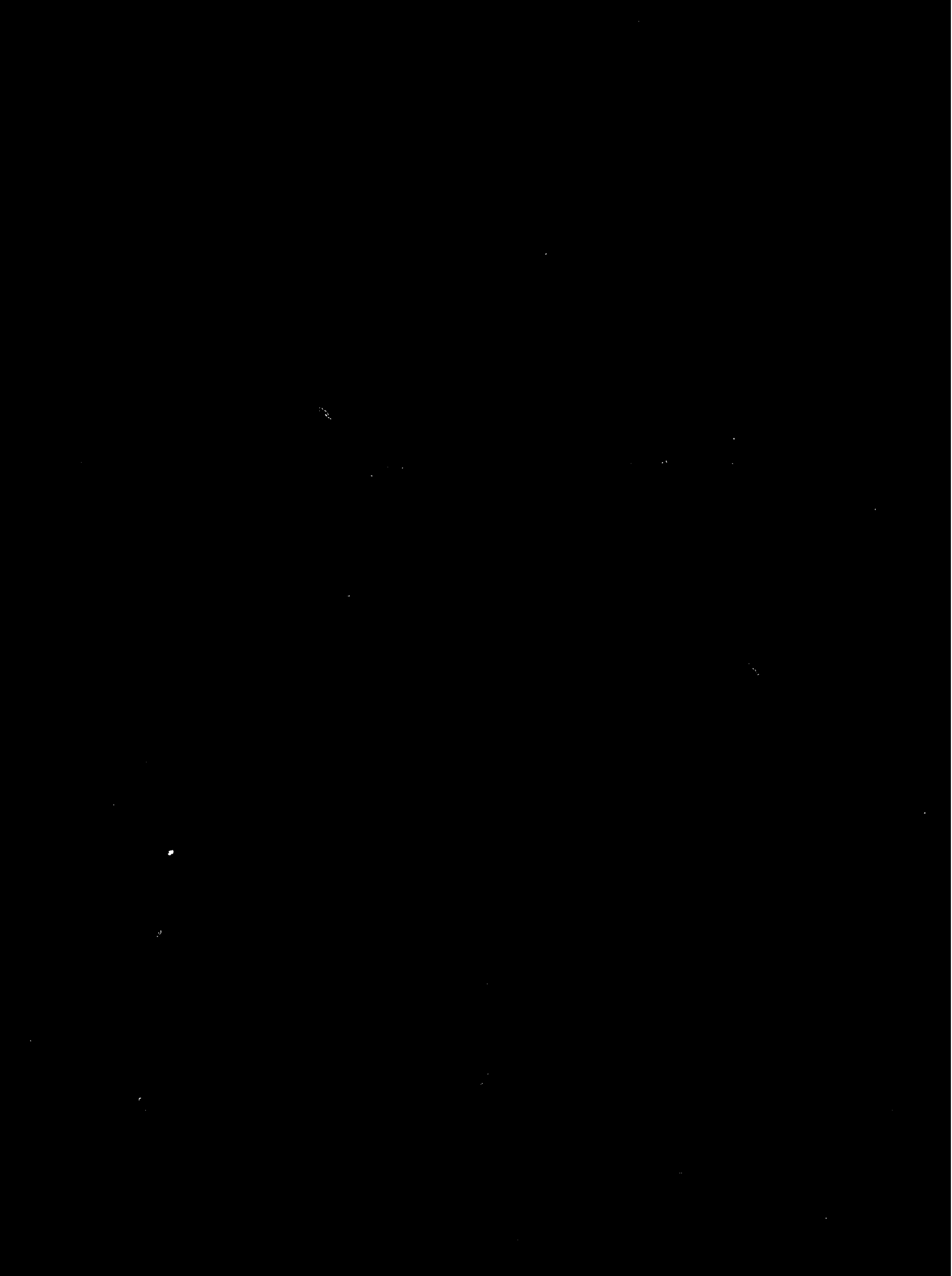




THE UNIVERSITY OF OKLAHOMA

GRADUATE COLLEGE

SELECTED ASPECTS OF THE LEGAL STATUS OF THE
STUDENT PERSONNEL ADMINISTRATOR IN THE
PUBLIC JUNIOR COLLEGE OF OKLAHOMA

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SELECTED ASPECTS OF THE LEGAL STATUS OF THE
STUDENT PERSONNEL ADMINISTRATOR IN THE
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SELECTED ASPECTS OF THE
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OF OKLAHOMA

CHAPTER I

INTRODUCTION

The Concept of Discipline

Student misbehavior and programs of discipline to control it have been a part of the collegiate scene throughout history. Williamson and Foley¹ state that misbehavior is as much a part of college as exams, texts, libraries, and lectures.

Every institution of higher education in some way delineates the individual student's behavioral and conduct responsibilities to its own rules and regulations as well as city, state and national laws. From this point of departure, disciplinary programs run the gamut from pure "in loco parentis" approaches to programs aimed at accomplishing a fusion of discipline with counseling as discussed by Williamson and Foley.²

¹E.G. Williamson and J.D. Foley, Counseling and Discipline, (New York: McGraw Hill Book Co., 1950), p. 163.

²Ibid.

The first difficulty one encounters in dealing with school discipline practices is the establishing of a definition for the word discipline. Since the word is an abstraction, it has no form at which we can point to identify it. However, most people feel that they can identify a person who is disciplined as well as one who does not have discipline. Through usage many different definitions have arisen. Webster's New Collegiate Dictionary lists "discipline" as: a noun with six meanings; a verb with three meanings; and as a synonym for teach and punish.¹

Modern educators would prefer to accept teach as an equivalent, and indeed there seems to be a strong trend toward the use of discipline as a learning situation in many institutions, however, this is not true in nearly all institutions and is challenged by some authorities. Wrenn states that, "School discipline has for centuries been taken for granted as punishment of the individual and the protection of the institution. Discipline may theoretically imply a learning experience that is of value to the individual in order to protect the group or preserve the integrity of the institution."²

Some authorities see the change of social roles within the culture as the main thing that effects the way that discipline will be defined. Phillips, Weiner, and Haring state that, "The further one goes

¹Webster's New Collegiate Dictionary (Springfield, Massachusetts: G. and C. Merriam Company, 1953), p. 236.

²C. Gilbert Wrenn, Student Personnel Work in College (New York: The Ronald Press, 1951), pp. 450-451.

back in time, at least within the confines of the last two centuries in our country, the more "discipline" tends to connote punishment. To discipline has meant to punish. Punishment often meant some kind of physical stress, spanking, smacking, strapping, switching to which the one being disciplined was submitted.¹

The punitive approach to discipline in colleges doubtless has its roots in the difficulty medieval universities and early American universities had in controlling their students. Without severe punishment, teachers feared that students would "get out of hand." Because of the medieval concept of God, any type of physical punishment was often preceded and followed by prayers so that the individual being punished might profit from the punishment. Williamson and Foley list the following punishments as being fairly common in American colleges up to about 1850:

1. Fines of varying amounts according to the offense.
2. Imposition of literary tasks, memorizing, copying, translation.
3. Letters to parents.
4. Public admonition and reproof.
5. Restriction to room.
6. Public confession of behavior.
7. Banish to the country and examination in studies upon return.
8. Corporal punishment.

¹E. Lakin Phillips, Daniel N. Wiener, and Norris G. Haring, Discipline, Achievement, and Mental Health (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1960), p. 13.

9. Expulsion in the presence of the full assembly of faculty and students.¹

Most sources seem to recognize two basic kinds of discipline:

- (1) Corrective discipline which attempts to deal with any outbreak, petty or serious, in a manner that will end the violation as quickly as possible and discourage any repetition by the offender or by other students.² (2) Preventive discipline which attempts to anticipate violations that might occur and heads them off before they do occur.

Corrective discipline in many cases connotes punitive action. Punitive discipline usually seems the easy expedient way of handling a problem situation, restrict or eliminate the violator. This concept of discipline is based on the belief that fear of punishment will prevent misbehavior. This approach seems to violate what we know about human nature, emotion rather than logic influences what youth will do in a discipline situation.

Preventive discipline would, of course, be ideal, but no one has yet been able to anticipate all of the trouble spots that arise. The most often applied attempt at preventive discipline has taken the form of printed or listed regulations. Sources generally seem to agree that there should be no lists of specific regulations although some sources favor certain general statement. Hawkes and Hawkes oppose a code of rules on the grounds that, "it is utterly impossible to con-

¹Williamson and Foley, op. cit., pp. 176-178.

²Robert L. Schain, Discipline: How to Establish and Maintain It (Valley Stream, Long Island, New York: Teachers Practical Press, Inc., 1961), p. 28.

struct a set of rules that the superior ingenuity of lively students cannot beat."¹ Clark's opposition to written specific rules is based on the belief that young people of college age know what is right and reasonable as to conduct. Rules often prevent individual action in specific cases. The very existence of regulations will frequently incite students to insubordination that would not otherwise have been thought of.²

The most prevalent, current theory of discipline is related to the guidance of counseling movement in student personnel work. This is the theory of self-discipline. The entire effort of the educative process is to initiate the individual into acts that are self-directed and each individual is to develop standards of self-control or self-discipline. Sources disagree as to when this process of self-determination should begin. It must be recognized, however, that the acquisition of self-discipline is subject to all the laws which psychology has discovered about any and all learning processes. There must be clear and acceptable goals, and it must be possible to achieve them, and there must be drives present which can be mobilized toward achievement.³

The self-discipline concept brings us directly to the next problem area in discipline, the need for development of an adequate and workable philosophy of discipline. This demands both an expression of basic guiding principles, and a decision as to how the basic questions

¹Hawkes and Hawkes, op. cit., p. 187.

²Thomas Arkle Clark, Discipline and the Derelict (New York: The MacMillian Company, 1921), pp. 7-8.

³Kate Hevner Mueller, Student Personnel Work in Higher Education (Boston: The Houghton Mifflin Co., 1961), p. 352.

(What shall be the purpose of discipline? Who will decide upon regulations? How shall the regulations be enforced? How will violators be judged?) are to be answered.

An adequate philosophy of discipline is difficult both to develop and to express. Discipline was once the responsibility of every member of the faculty and most of the staff as well. Violations were dealt with positively and usually on the spot. Most offenses needed no discussion. Society regarded higher education as a distinct privilege and did not question actions relating to punitive discipline no matter how severe. The offender generally knew what the consequences of his act would be if discovered.¹ Modern psychology has worked to change this by making people more aware of individual differences and motivation. Other cultural developments including the hold which moral and religious principles have on society and the change of concept which come to regard higher education as more of a right than a privilege have tended to erase the more severe aspects of punitive discipline.

Working from intuition was easier "in the good old days" when student groups were smaller, when all the students were very much like all the professors, when college officers were asked only for academic advice, when indignation and social pressures took care of most student problems, when the failures could be decently forgotten or piously justified as part of a divine plan, and when there were no evaluations of personnel procedures and results, no embarrassing studies of drop-

¹Richard I. McKinney, "Disciplinary Philosophy and Procedures in a Small College," Association of American Colleges Bulletin, Vol XLII, December, 1956), p. 548.

outs, no follow-up of alumni, no disconcerting correlation coefficients between student potentialities and accomplishments.¹

But in a society where groups do bring pressures to bear, ask embarrassing questions, and in general hold institutions accountable for many areas of its action, there is a need for establishing a goal for discipline. Someone or some group must decide what kind of discipline we are to have. Sheviakov and Redl insist that discipline in a democratic society should follow these guidelines: (1) The discipline should recognize the inherent dignity and rights of every human being. (2) Discipline should be based on devotion to humanitarian principles and ideals. (3) Discipline should point toward self-direction and self-discipline. (4) It is the right of all to have a voice in plans and policies which directly affect them.²

Although there was an idea that more than one person should be responsible for the development of policies and the carrying of the discipline program of an institution, early sources tend to lean toward the actual practice of one man rule. This had perhaps come about as a result of early specialization entering the profession. The attitude of faculty members may have evolved from a state where all felt equally responsible for the disciplined activity of every member of the student body to the place where each professor felt responsible only for the discipline of students in his classes while they were in his classes. The early Dean of Men or student personnel worker tended to be an older person, who through his years of experience had come to develop

¹Mueller, op. cit., p. 349.

²George V. Sheviakov and Fritz Redl, Discipline for Today's Children and Youth (Washington, D.C.: National Education Association, 1956), pp. 7-13.

a benevolence for students. Thus, the early person in student personnel work became a benevolent despot. He was usually a kindly, old, Mr. Chips type of character. However, it should be pointed out that this was not always the case. Hawkes and Hawkes state that there are at least two advantages to one man rule that seem to outweigh any disadvantages: (1) Centralization of discipline insures a uniformity of treatment that can be attained in no other way (other sources attack this by saying that each case is an individual case and as such, unique). (2) It provides a central place where all memoranda and records affecting the student can be stored for reference.¹

Most sources do seem to feel a need for a single person being designated as the final authority in discipline matters. This person might be the President of the institution with delegated responsibility from the Regents or Trustees, or it might be another administrative officer with delegated authority and responsibility from the President. Sources do not agree as to how this person with final authority should operate. Some see him as a person who reviews the action taken by a group with the idea that the authority may lessen the penalty if he regards it too severe,² or he may be a person who can set aside the suggested action of the group and follow his own path.

Clark suggests these characteristics for a disciplinary officer:

He must have the confidence of both students and faculty, they must feel that matters given into his hands will be dealt with squarely and without delay. He must have great patience and the ability to lay aside prejudices against group or individuals.³

¹Hawkes and Hawkes, op. cit., pp. 201-202.

²Wrenn, op. cit., p. 470.

³Clark, op. cit., pp. 10-11.

Most sources seem to favor some kind of group procedures for handling discipline problems. Beyond this agreement there is much disagreement concerning the functions of the group. Some sources would restrict group participation in discipline to policy making. They feel that the undergraduate student is not mature or capable enough, does not want, and should not be expected to sit in judgement of his fellow students. Other sources speak with admiration of schools that do not have any form of discipline measures handled by the faculty or administration. Students make all policies relating to discipline and sit in judgement of all violators. These so called "honor system" schools have both proponents and severe critics. Williamson and Foley describe five kinds of administrative structures for discipline, although there may be many other individual patterns in common use. The authority may be vested in: (1) a faculty committee, (2) a student committee, (3) a committee including both students and faculty, (4) a committee of personnel workers and students, or (5) a personnel administrator who works without a committee.¹ There is no agreement among sources concerning numerical makeup of these boards. Most are probably faculty or administration dominated either numerically or as a result of student fear or respect for faculty or administration members attached to the boards.

Various arguments are advanced in favor of, or in opposition to each kind of discipline board. The most widely used practice seems to be a board consisting of some mixture of faculty and students who have both policy making and judicial obligations. There is probably no one area where there is a greater need for cooperation between stu-

¹Williamson and Foley, op, cit., p. 82.

dents and faculty than in that of discipline. Our entire society is based on the assumption that the rules that regulate our lives are allowed only because those being ruled allow it to be so, with a definite voice in helping make the rules.

Whether a group or a person is in charge of discipline in the institution does not seem as important as the attitude or spirit in which the discipline is conducted. If discipline is seen as a matter of sin to be followed by punishment then the person or persons in charge of discipline becomes, in the eyes of the beholder, at least, a severe and avenging judge. Most sources spoke of a need to individualize cases; to make action clear and reasonable to the offender; and to make the punishment fit the crime. There is no uniformity of opinion concerning how these things are to be done, however, most recent sources point to the law of marginal antisepsis as a guideline. This technique holds that what is right for the solution of one person's problems must at least be harmless to the group, and that the solution to the group's problems must at least be harmless to the individuals involved.¹ This is not an easy rule to apply, and it can only be applied in its truest sense in rare cases. There are times when individuals must be dealt with severely for the good of the rest of the group and by the same token there are times when the entire group must be punished for the misdeeds of the few rather than to let the few escape unpunished.

At any rate, there are cases of both good and bad handling of discipline cases. By bad discipline we refer to discipline that is

¹Sheviakov and Redl, op. cit., p. 25.

too harsh or too easy, too quickly administered, too negative and that is over-generalized and self defeating. Discipline that avoids these extremes is better. But good discipline ought to have some positive characteristics and not merely avoid the negative extremes.¹ Good discipline is not a matter of punishment nor a generally punitive attitude. It involves setting up clear educational and behavioral standards and goals, letting the youth know how the goals can be achieved, and finding ways to implement the goals.²

Probably the most important principle from which the institution can act is that prevention is to be given more attention than cure. However, when a violation occurs it is important that each offender be made aware of the wrong that he has committed, that he accept the fact that he has erred, and that some learning experience result from the disciplinary action which is taken. This is not to imply that a serious delinquency should be taken lightly. Violations do occur and punishment of some kind must follow.

Colleges provide opportunities for students who are able and willing, in the interest of their own development and the welfare of society, to become self-disciplined persons. Colleges have an obligation to assess the efficacy of their teaching and the degrees and directions of learning. The relation of the student to his college is different in nature and purpose from his relation to the courts.

Both colleges and courts have a strong interest in equity, though the latter are probably a more compelling force in preserving it. The courts have the primary responsibility for enforcing laws for the pro-

¹Phillips, Wiener, and Haring, op. cit., p. 15.

²Ibid, p. 183.

tection of persons, their rights and properties; but the colleges also exercise some authority toward the same ends within, and even beyond, the academic community. Reciprocally, the courts, with their enlightened concern for rehabilitation, play a part in promoting learning.

The preceding background material points up two facts: (1) that discipline, whether it be exercised by the student himself or structured by some rule making body definitely is part of the college program today, and (2) the individual to whom the responsibility of social control is delegated has a responsibility not only to the individuals who make up the academic community, but also to the city, state, and national governments.

Because of the anticipated increase in junior college enrollment and the importance of student personnel work at the junior college level, this study was undertaken. Its purpose was to provide information to assist in the improvement of student personnel services in the public junior colleges of Oklahoma. The proper and efficient functioning of any service requires continual analysis of its operation. Such analysis should then dictate changes in an effort to improve the service. The importance of such a study is emphasized by the possible contributions to junior college personnel work growing out of the results of the investigation. The present study was designed to make the following contributions:

- (1) The study presents a synthesis of disciplinary practices in the public junior colleges of Oklahoma and the thinking of the student personnel practitioners toward these practices.

(2) It presents a synthesis of state statutes, court decisions, and institutional regulations having a direct bearing on the social control of the student in the public junior college of Oklahoma.

(3) It reveals legal sanctions and principles growing out of statutes, court decisions, and regulatory measures. With the knowledge that there has been litigation in the past, the study should serve as a warning to those involved in student personnel work to avoid or at least be aware of those situations which often lead to expensive and disastrous court actions.

(4) The investigation should serve as a guide in understanding the rights and privileges he enjoys and may legally enforce.

While not a substitute for technical legal training and experience, this study should yield a measure of general information in matters with which personnel administrators are concerned.

(5) The study should serve as a basis for developing more thorough training programs for student personnel workers at the junior college level.

Statement of the Problem

The purpose of this study was to colligate the state statutes and court decisions which are relevant to the conduct and welfare of the student in the six state supported junior colleges in Oklahoma, and to review and evaluate in terms of their legal implications the eleven general categories of disciplinary practices on which the respective colleges base their student conduct regulations.

Delimitations of the Study

In the junior colleges where the rationale for standards of student behavior is set forth in their catalogues and handbooks, there is a marked characteristic of common purpose that is shared by all state controlled two year colleges. A common philosophy underlying standards of behavior is also prevalent. The method by which this philosophy is implemented, however, differs from institution to institution. For this reason the study was limited to the following state supported junior colleges:

Cameron State Agricultural College	Lawton
Connors State Agricultural College	Warner
Eastern Oklahoma Agricultural and Mechanical College	Wilburton
Murray State Agricultural College	Tishomingo
Northeastern Oklahoma Agricultural and Mechanical College	Miami
Northern Oklahoma Junior College	Tonkawa

Due to the restricted mission of the Oklahoma Military Academy at Claremore, this college was not included within the study.

The investigation determined whether certain disciplinary procedures were practiced as part of the personnel program in each institution and the legal foundations on which each practice was based. In this regard the study was designed to be descriptive in that it attempted to relate the disciplinary practices in the state-supported junior college of Oklahoma as they were found to be operating in fall and spring semesters of 1966. In addition, the study became a partial evaluation as each general category of disciplinary practice was compared

with the statute or court decision regulating the respective disciplinary procedure.

Following the pattern established by M.M. Chambers in his series of books The Colleges and the Courts, this investigation was an exploratory study of the statutes, court decisions, and institutional regulations influencing the control of social behavior of the college student. The study was not undertaken with the idea to produce an instrument of adjudication, but rather to cause the personnel administrator to be cognizant of his legal obligations and responsibilities to the student as well as his respective institution.

Definition of Terms

1. "Junior College" as used in this study refers to institutions of higher education which are organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree.

2. "The Dean of Student Personnel" in Oklahoma is one who has been authorized by the State of Oklahoma to perform professional educational functions in a college.

3. "Legal Status" is defined as the Student Personnel Dean's position or standing as permitted or authorized by law.

Procedure

The solution to the problem was developed in the following sequence:

1. Determination of the categories of disciplinary practices to be studied.

2. Compilation of state statutes and judicial decisions pertain-

nent to the legal status of the student personnel administrator in the state supported junior colleges of Oklahoma.

3. Collection and analysis of data concerning the existing disciplinary practices in the junior colleges included in this study.

4. The comparison of the procedures regulating social control in each institution with the state statutes and court decisions relative to each disciplinary practice.

The categories of disciplinary problems to be studied were determined by maintaining a frequency table of the mention of particular disciplinary cases by the student personnel administrators as actual cases against which they were required to take action during the period studied. Seventy-six actual offenses were mentioned by the Deans of Students of the respective colleges. From these seventy-six cases, eleven categories of offenses were created. These were:

1. Unapproved housing - violation of housing regulations.
2. Illegal mass activity - "pantie raids" and protest marches.
3. Disorderly conduct - peeping tomism, abusive language, disrespect to instructors.
4. Theft.
5. Gambling.
6. Misuse of privileges and fraud - bad checks, misuse of college I.D. cards.
7. Assorted misconduct - firearms on campus, disturbing the peace.
8. Alcoholic beverages - use by minors, intoxication.
9. Academic or related offenses - cheating, mutilation of

library materials.

10. Automobile cases - misuse of autos and auto privileges.

11. Violation of probation and habitual trouble-making.

The data concerning these categories and the procedures used to control them were gathered by means of personal interviews during the month of February, 1967. In a discussion of survey research, Kerlinger makes a statement that: "...the personal interview far overshadows the others as perhaps the most powerful and useful tool of social scientific survey research."¹ The interview was conducted with the person in each institution responsible for the direction of the program of student personnel services.

In an attempt to insure as much consistency as possible in each of the interviews in the six institutions included in this study, the interviews were structured by means of an interview outline (Check-List - Student Disciplinary Offenses, page 169 in Appendix) and a simple question sheet regarding the disciplinary procedures used against the offenses (Interview Questions - College Disciplinary Procedures, pages 170-2 in Appendix).

In compiling the chapters concerning the influence of the courts on student behavior and special legislation regarding college disciplinary practices, a method of approach similar to that used by members of the law profession in studying questions of law was adopted. The steps in this procedure were:

1. In each general category covered, pertinent portions of legal textbooks and encyclopedias were referred to in order to obtain

¹Fred N. Kerlinger, Foundations of Behavioral Research, (New York: Holt, Rhinehart and Winston, 1964) p. 395.

a broad and comprehensive outline of the problems presented. Such references as were made in these works to rules of law applicable to student personnel workers in the colleges were noted for further study and examination.

2. Upon determining the general outline and problems involved in each area or category to be studied, the next step was to make a study of the current statutes of Oklahoma and establish the existence or absence of any pertinent statutory law. The Oklahoma Statutes Annotated was used in developing this portion of study.

3. A study of the decisions of the Supreme Court of the State of Oklahoma and the Court of Criminal Appeals of the State of Oklahoma was made for the purpose of determining the judicial construction of applicable statutes. In the absence of pertinent statutory enactments, an effort was made to study the judicial pronouncement of the rules of law to be applied, their application, and the results.

4. In this stage of study, use was again made of Oklahoma Statutes Annotated for references to cases decided by courts construing statutory law, and of Oklahoma Digest for references to cases of these courts pertaining to the particular category studied, whether construction of statutes was involved or not. With the references thus obtained from these sources, as well as those previously noted in legal textbooks and encyclopedias, the actual decisions referred to were studied in Oklahoma Reports, Oklahoma Decisions, and Reports of the Criminal Court of Appeals. A brief consisting of statements of facts, questions involved, and holding of the court with its reasoning,

was made in each case studied.

5. After exhausting the authorities in Oklahoma, the legal textbooks, encyclopedias, and legal reviews were again studied for the purpose of determining the statutes and court decisions, applied in control of college student behavior in states other than Oklahoma. Although an attempt was made to determine all the statutes having the words "college student behavior" or similar terms within their contents, this type of exploratory study was certain to have failed to include pertinent laws, that were they known, would have been included. The best possible effort that could be made by non-law professional personnel was made to ferret out the statutes and court cases specifically governing or interpreting regulations governing college student behavior. A table, "The Detailed Breakdown of the Statutes About Student Behavior Arranged by Date of Passage and by State", will be found on page 165, Appendix A.

6. After completing the foregoing steps of study, the information obtained was used as a basis for which to study the legal foundations of the selected student personnel practices governing disciplinary procedures in the state supported junior colleges of Oklahoma.

The study concludes with a series of recommendations concerning the program changes in the institutions aimed at improving student personnel services and thereby provide better educational opportunities to the junior college students in Oklahoma.

Summary

Student misbehavior and programs of discipline to control it have been throughout history and are now a part of the collegiate scene.

Every institution of higher education in some way delineates the individual student's behavioral responsibilities to its own rules and regulations as well as city, state, and national laws.

Whether the discipline be considered self discipline or sets of rules structured by some regulation making body, there must be some basis for conduct control.

Colleges provide opportunities for students who are willing to become self-disciplined persons, but at the same time have sets of regulations to control disciplinary delinquencies that do take place.

The colleges and courts of our land have a strong interest in equity. The colleges and courts share in the responsibilities of enforcing laws to protect the student, his rights and properties. Both are concerned with rehabilitation and play a part in promoting learning.

Discipline is definitely a part of the college scene and the individual responsible for its implementation bears a great responsibility to the academic community, the local, state, and national governments.

Because of the anticipated increase in junior college enrollment, and the importance of student personnel work at the junior college level, this study was undertaken.

The study will bring together disciplinary practices from all the state supported junior colleges, present a synthesis of state statutes and institutional regulations. It should serve as a guide to the personnel administrator in knowing the law and its interpretations thus giving him an understanding of the rights and privileges he may legally enforce as well as the actions he may well circumvent. The study should

serve as a basis for developing more thorough training programs for student personnel workers at the junior college level.

By employing the law profession's methods of research, statutes and court decisions having a direct bearing on student personnel work were ferreted out. Eleven general categories of discipline practices in the state supported junior colleges of Oklahoma were then compared to these findings and reviewed in terms of their legal implication.

A series of recommendations concerning changes in student personnel services of the junior colleges under study concludes the study.

CHAPTER II

LEGAL RATIONALE UNDERLYING INSTITUTIONAL DISCIPLINARY AUTHORITY

Legislatures have enacted laws which deal with student discipline. Courts have been called upon to clarify this legislation and thus grant to the college authorization for disciplinary procedures.

Four general headings categorize legislation on the granting of disciplinary authority.

1. A direct grant of disciplinary authority to the faculty.
2. Direct grants of authority to boards with authorization for them to delegate power to the faculty.
3. Direct power to the board without mention of the faculty.
4. A general grant of power to the board without specifically mentioning discipline.

Examples follow which best illustrate the four types of legislation.

Direct Grant of Disciplinary Authority to the Faculty

The Idaho law states that in all matters which entail new policies and methods of procedure, the administration and the faculty should report back to the board for instructions. "The execution of the policy shall be left to the experts." Further explanation clarifies the term

"expert" as here used to mean the administration and the faculty.

The board shall be the appellate - legislative body. It shall constitute a final court of appeal in all educational controversies, shall perform legislative functions not inconsistent with the law, and shall delegate to its executive officers the execution of all policies decided upon. The immediate government of the university shall be entrusted to the faculty, but the regents shall have the power to confer upon the faculty by by-laws the power to suspend or expel students for misconduct or other causes prescribed by such by-laws.¹

The Wyoming statute states:

The presidents and professors of the university shall be styled "the faculty" and shall have power as such body to enforce the rules and regulations adopted by the trustees for the government of students, to reward and censure students as they deserve, and generally to exercise and discipline in harmony with said regulations as shall be necessary for the good order of the institutions.²

The statutes of Oregon prescribe that:

The president and professors constitute the faculty of the University of Oregon and, as such, have the immediate government and discipline of it and the students therein.³

Delaware law:

The faculty, consisting of the professors, instructors, and others employed by the Board of Trustees, one of whom shall be president of the university shall have the care, control, government, and instructions of students, subject, however, to the by-laws.⁴

The Appeals Court of Ohio in West v. Board of Trustees of Miami

¹Idaho Code, 1943, Indianapolis, Ind.: The Bobbs-Merrill Company, 1957.

²Wyoming, Compiled Statutes, Indianapolis, Ind: The Bobbs-Merrill Company, 1945.

³Oregon, Revised Statutes with Supplement through 1955, Published by the State of Oregon).

⁴Delaware, Annotated Laws, 1953, with Supplement through 1954, St. Paul, Minn: West Publishing Company.

University states that:

The rules and regulations promulgated by the university faculty under statutory authority, are binding on all concerned, unless unreasonable, arbitrarily applied, or unlawful.¹

In another Ohio court decision, Koblitz v. Western Reserve University, this decision was handed down:

The faculty of a university, under the custom of the land, is justified in disciplining students in the institution and the student who enters such institution agrees to conform to that rule of law and to be tried for his misdemeanors by the rule that has been applied by such institutions for so long a time that it has become the rule of law.²

The Missouri Supreme Court ruled that the president of a state teachers college had authority to make rules of conduct for the students where the regents had not done so. The case bringing this decision was an incident where students were exploding firecrackers in a dormitory and the president of the college asked the students to sign a pledge for orderly conduct. One refused and was expelled. The court said that every student was morally responsible for what took place in the residence hall.³

Authority to Delegate Discipline to Faculty

North Dakota law says that the board of regents has power to confer on the faculty, through by-laws, the power to suspend or expel

¹Koblitz v. Western Reserve University, 21 Ohio Cir. Ct. R. 144, 110 C.D. 515 (1901).

²West v. Board of Trustees of Miami University, 41 Ohio App. 367 (1931).

³Englehart v. Serena, 318 Mo. 263 (1927).

students for misconduct or for other causes prescribed in such by-laws.¹ Ohio, Kentucky, and Wisconsin are examples of other states with laws similar in nature.

The Missouri law states:

The curators shall have power to delegate so much of their authority as they deem necessary to such officers and employees or to committees appointed by the board including power to suspend or expel any student for disobedience of the rules or any dishonesty, drunkenness, immoral act, insubordination, etc.²

The law in South Dakota provides that "the board may delegate provisionally to the president, dean, principal, or faculty of any school so much of its authority as it desires according to usual customs."³

A Kentucky law states that the state board of education can invest the faculty or a committee of the faculty with power to suspend or expel any pupil for insubordination, immoral conduct, or disobedience of the rules and regulations of the school. This statute did offer an appeal route. The student can appeal from the decision of the faculty to the board of education, but the board's decision will be final.⁴

The Supreme Court of Wisconsin in Frank v. Marquette University stated that there was broad discretion given to schools, colleges, and universities in disciplinary matters. The court went further in stating that the faculty could adopt different disciplinary measures against different students, guilty of substantially similar infractions of rules, without warranting interference by the court on the ground of arbitrary

¹North Dakota Revised Code, 1944, Fargo, N.D.: Knight Publishing Company.

²Missouri, Statutes Annotated, 1932, (With Supplement through 1940) Kansas City, Mo.: Vernon Law Book Company.

³South Dakota, Revised Code, (1939), Pierre, S.D.: State Publishing Company.

⁴Kentucky, Revised Statutes, (1953), Published by the State of Kentucky.

discrimination.¹ The Louisiana Supreme Court held that the administration of the affairs of the school, including discipline, was in the hands of the board of education and the president. A student complaining of the president's action in discipline had to exhaust his recourse before the school authorities as a condition precedent to resorting to the courts.²

The Ohio Court of Appeals said in McGinnis v. Walker that:

University and college authorities may make all necessary and proper regulations for the orderly conduct of their institution and preservation of discipline therein but the courts may and should intervene if the rules and regulations are found to be unauthorized, against common right, or palpably unreasonable.³

The Appeal Division of the New York Supreme Court acting on a case in mandamus by an expelled student seeking reinstatement said:

The faculty acted within the scope of its jurisdiction and exercised its discretion in a matter involving discretion to such purpose that no review may be had by court.⁴

This case was concerned with a student who was expelled for unpatriotic, revolutionary, and anarchistic talk.

Disciplinary Authority Granted Directly to Boards

The statutes of many states grant disciplinary authority directly to the boards without mention of the faculty. A good example of this is the Virginia law which states that the board might employ as many agents and servants, regulate the government of the students, and make such

¹Frank v. Marquette University, 209 Wis.: 372 (1932).

²State ex rel. Dodd v. Tison, 175 La.: 235 (1932).

³McGinnis v. Walker, 40 N.E. 2nd 488 (1942).

⁴People ex rel. Goldenkoff v. Albany Law School, 191 N.Y.S. 349, 198 App. Div. 460 (1921).

regulations as they might deem expedient and not contrary to law.¹

As Arkansas law states that:

The trustees of the university shall have power to prescribe all rules and regulations of the government and discipline of the university subject to the provisions of the act and such other acts of the general assembly as may hereafter be prescribed.²

This is a general type of legislation and does not preclude the right of the governing boards to delegate authority over discipline to the faculty or administration.

The Supreme Court of Florida handed down possibly the most far reaching decision concerning the authority invested directly in the governing boards. In the case of John B. Stetson University v. Hunt the court stated:

As to mental training, moral, and physical discipline and welfare of the public, college authorities stand in "loco parentis"; and in their discretion may make any regulations for their government which a parent could make for the same purpose, and so long as such regulations do not violate divine or human law, courts have no authority to interfere.

In the school there exists on the part of the pupils, the obligation of obedience to lawful commands, subordination, civil deportment, respect for the rights of other pupils, and fidelity to duty.³

Although this decision was made in the case of a private college, the same reasoning applies to public colleges. Such obligations are considered inherent in any higher education institution and thus constitute the common law of the school. Trustees may vest in other school officials authority to enforce discipline.

¹Code of Virginia, Annotated, 1950, with Supplement through 1954, Charlottesville: The Michie Company.

²Arkansas, Statutes, Annotated, 1947, Indianapolis, Ind: The Bobbs-Merrill Company, 1957.

³John B. Stetson University v. Hunt, 88 Fla: 510 (1925).

General Authority Vested in
Boards Without Mention of Discipline

The legislatures of several states have seen fit not to mention discipline specifically, but confers general authority to make rules and regulations for the institution. An Arkansas law confers upon the state teachers college board the power to make rules and orders, not inconsistent with the laws of the land, as to them seemed necessary for the regulation, government, and control of themselves as trustees and all officers and teachers and other persons by them employed in and about the same and all persons in said institutions.¹ This type of statute grants full control over discipline to the administrators or faculty of the school. A Nevada case is even more clear in granting this authority, as the supreme court stated that only the legislature can question the authority of the board of regents.²

This legislation is the basis for the regulations of the government and discipline of all state colleges in Oklahoma. The Oklahoma statutes state: The Board of Regents for Oklahoma Colleges shall adopt such rules as it deems necessary to govern each of the institutions under its jurisdiction.³ To be more specific: The board of regents in their regulations, and the principal in his supervision, and government of the school shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance, but no religious or sectarian tests shall be applied in the selection of teachers and none shall be adopted in the school.⁴

¹Arkansas Statutes, Annotated, 1947, with Supplement to 1957, Indianapolis, Ind.: The Bobbs-Merrill Company, 1957.

²King v. Board of Regents of the University of Nevada, 200 P. 2nd, 221 (1949).

³Oklahoma, Statutes, Title 70, Sec. 3412 (1965).

⁴Oklahoma, Statutes, Title 70, Sec. 1782 (1961).

Special Disciplinary Legislation

Many of the state legislatures have passed special laws that govern a specific aspect of student discipline. This area of special disciplinary legislation will be covered in Chapter III.

Type and Extent of Hearing Required for Disciplinary Action

(The Due Process Law)

For many years the power that the officers of a college could lawfully exert to restrict and control the actions of their students was based upon an ancient doctrine of the common law--that the schoolmaster stands in the same position with respect to his students as that of a parent--in loco parentis--and he could therefore direct and control their conduct to the same extent as a parent.

This old rule of the common law in England and America was well stated by a Kentucky judge in 1913. Berea College had issued a regulation prohibiting its students from entering public eating houses in the community. The owners of a restaurant near the campus sought an injunction to compel the college officials to recind this rule. The court refused to grant the petition and sustained the right of the college to control its students. The court stated:

College authorities stand in loco parentis concerning the physical and moral welfare and mental training of pupils. For the purpose of this case, its officers and students are a legal entity, as much so as any family, and, just as a father may direct his children, those in charge of boarding schools are well within their rights and powers when they direct their students what to eat and where they may get it; where they may go and what forms of amusement are forbidden.¹

¹ Gott v. Berea College, 161 S.W. 204 (1913).

The courts of this country have been reluctant to interfere with the power and authority of a schoolmaster to discipline his students and to expel them if, in his opinion, their presence on the campus was undesirable. It was a well-established rule of the common law that a student and his parents were bound by the terms and provisions of the contract of enrollment, oral or written; that this contract included, by reference or by implication, all the traditions, rules and regulations adopted by the school authorities for the discipline of students and the reputation of the institution. As long as these rules and regulations were reasonable and enforced without malice or prejudice, a court would not interfere.

In recent years the courts of our nation have begun to question the principle of in loco parentis and more is being heard of "due process" in matters of disciplinary procedures. The legal aspect of "due process" has become increasingly important for student personnel workers.

Blackwell states that the last ten years have seen more college due process litigation before the courts than all other years combined in the history of higher education in the United States.¹

The fact that lawsuits have become more frequent can be accounted for in two ways: (1) A college education has become increasingly a valuable personal property. (2) Civil Rights legislation and the activists have provided more occasions which have led to disciplinary review by colleges.

¹ Thomas E. Blackwell, College Law: A Guide for Administrators, (Washington, D.C.: American Council on Education, 1965) p. 261.

Historically, the due process protection has its roots in the Magna Charta. King John expressed willingness not to "go against" any freeman, except by the judgment of his peers or per legem terrae.

The Fifth and Fourteenth Amendments to the Constitution promise that the nation and the states shall not deprive any person of life, liberty, or property without due process.

For a century, due process seemed to involve procedure only as a description of a fairly tried action of law with proper observance of allegations, opportunity to answer, and a trial according to established judicial procedures.

From this concept of legal procedure, the term due process was to expand to include the idea of existing property rights which needed protection from legislation. In this respect, the Supreme Court interpreted the Fourteenth Amendment in 1875 to be "an additional guarantee against any encroachment by the states upon the fundamental rights which belong to every citizen as a member of society."¹ Recent Civil Rights developments in our culture have focused attention on the meaning of liberty in the due process clauses of our Constitution.

Life and property were easily interpreted in due process actions. Liberty has undergone development and has come to mean the right to use one's faculties in all lawful ways, to live and work where one wishes, to pursue any lawful occupation and to retain the gain therefrom.² The right to pursue higher education seems to have found its roots in the expanded interpretation of the term liberty.

¹ U.S. v. Cruikshank, 92 U.S. 542, (1875).

² Martin Levine, "Private Government on the Campus," Yale Law Journal, Vol. 72, June, 1963, p. 186.

Recent years have found the states being called upon to furnish law and order through the exercise of police power, for financial support through taxation, and for control of industry--particularly commerce. This demand has led to increasing varieties and methods of delimiting and controlling liberties of individuals in the interests of the citizens of the various states. In 1883, the State of California abolished grand juries to prosecute serious felonies and the courts held to this due process.¹ Railway rate cases brought into the courts a new consideration, the reasonableness of legislative action measured by the judgment of rational and fair men.² Justice Holmes has observed that the "word liberty (is) perverted when held to prevent the natural outcome of dominant opinion."³

Colleges and universities find themselves increasingly involved in matters of due process. One case which has had a significant bearing on college housing regulations across the United States happened early in 1947.

In the fall semester of that year, the Board of Regents of the University of Oklahoma required all students to live in university operated dormitories. The owner of a private rooming house sought relief from a federal district court on grounds that the university's action deprived her of liberty to contract her property without due process.

¹ Hurtado v. California, 110 U.S. 516 (1884).

² Chicago Railway v. Minnesota, 134 U.S. 418 (1890).

³ Lochner v. New York, 198 U.S. 45, 75, (1905).

The court declined to grant relief and said:

When a state acting in a proper sphere, passes regulations which are valid and suitable to attain a desired end, the mere fact that such legislation or regulatory measures have an incidental effect upon a few individuals does not make the regulations invalid ¹ or abridge the constitutional rights of the individual.

A similar decision came in 1953 when the Board of the State University of New York resolved that "no social organization which has any direct or indirect affiliation or connection with any national or other organization outside the particular unit shall be permitted to function in any state operated unit of the State University." Furthermore that:

No such social organization, in policy or practice, shall operate under any rule which bars students on account of race, color, religion, creed, national origin, or other artificial criteria.

Earl Webb, president of Sigma Tau Gamma, filed a petition in the federal district court to void these Board resolutions on the ground that they were adopted without due process, that they encroached upon the constitutional freedom of assembly, denied them of equal protection before the law and adversely affected their existing contractual and property rights.

The federal judge ruled that the petitions had failed to show that they had been deprived of any civil right. The U.S. Supreme Court declined to review the decision. ²

In 1923, Syracuse University dismissed peremptorily a young woman registered in the university. No statement of the grounds of dis-

¹Pyeatte v. Board of Regents, University of Oklahoma, 342 U.S. 936, (1952).

²Webb v. State University of New York, 120 F. Supp. 554; 125 F. Supp. 910 (N.D.N.Y.) 1954.

missal was made and no opportunity to answer charges was given. The university referred to its registration form signed by every student:

The university in order to safeguard its scholarship and its moral atmosphere, reserves the right to request the withdrawal of any student whose presence seems detrimental. Specific charges may or may not accompany a request for withdrawal.

She sought reinstatement in the New York Supreme Court. Judge Smith, the presiding judge, considered the regulation to create "...an intolerable and unconscionable situation, and the action of the university is arbitrary, unreasonable, and, in a high degree, contrary to a true conception of sound public policy."¹

On appeal, the decision was reversed by a Judge Sears on the grounds:

The University need not accept as a student one desiring to become such. It may, therefore, limit ² the effect of such acceptance by express agreement.

Again in Montana, 1927, President Clapp of the University of Montana dismissed a student without hearing. The case was taken to the Supreme Court of the United States which refused to review the question of right to due process. The Supreme Court of Montana had said that:

To hold that the power of suspension could be exercised only after a hearing had been held...would be to hold that the power was practically ineffective.³

The Montana decision carried the authority to dismiss a student one step further in the failure to observe due process in that no agreement existed between the student and university concerning peremptory dismissal.

¹Anthony v. Syracuse University, 223 N.Y. 796 (1927).

²Anthony v. Syracuse University, 231 N.Y. Supp. 435 (1928).

³State ex rel. Ingersoll v. Clapp, 81 Mont. 200 (1927).

In 1949 a young female student enrolled in the medical school of the University of Illinois. She was suspended in 1953 without being given a reason. Upon appeal she appeared before the University committee on policy and discipline where she was told that she had cheated on examinations. She petitioned a circuit court for a writ of mandamus to compel the trustees of the university to readmit her. She claimed her constitutional right of due process, that she was denied the right to a hearing at which she might confront her accusers and cross-examine them. The circuit court declined to grant her wish and she appealed to the state supreme court. Judge Miemey confirmed the refusal of the Circuit Court to grant the writ.¹ He quoted favorably an earlier decision:

In order to carry out the posers and duties of school directors, no form of trial or hearing is prescribed. The board of education is authorized, in a reasonable and parliamentary way, to investigate charges of disobedience and misconduct and to suspend or expel one whom they may find guilty of violation of their reasonable and valid rules.²

An Ohio opinion is cited as providing an outline of the proper procedure by disciplinary committees:

It is not necessary that the professors go through the formality of a trial. They should give the student whose conduct is being investigated every fair opportunity of showing his innocence. They should be careful in receiving evidence against him, they should weigh it; determine whether it comes from a source freighted with prejudice; determine the likelihood, by all surrounding circumstances, as to who is right, and

¹ People v. Board of Trustees of University of Illinois, 134 N.E. 2nd 635 (1956).

² Smith v. Board of Education, 182 Ill. App. 342 (1913).

then act upon it as jurors with calmness, consideration, and fair minds. When they have done this and reached a conclusion, they have done all that the law requires them to do.¹

In 1948, Congress authorized federal district courts:

To redress the deprivation, under color of any state law, statute, ordinance, regulation, custom or usage of any right, privilege or immunity secured by the Constitution of the United States or by any act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.²

In 1959, a student entered Brooklyn College. He assumed the role of a reformer, having become convinced that certain student organizations were too much dominated by the college administration. He was dismissed and filed action for reinstatement in a federal district court. He alleged he was deprived, without due process, of his right of freedom of speech and equal protection of the law, under the federal civil rights statute of 1948, cited above. The trial court dismissed his complaint and he appealed. The Federal Court of Appeals dismissed the case on the ground that the district court lacked jurisdiction over this matter, saying:

Education is a field reserved to the individual states. The only restriction the Federal government imposes is that, in their educational program, no state may discriminate against an individual because of race, color, or creed. To expand the Civil Rights Statute so as to embrace every constitutional claim such as here made would, in fact, bring within the jurisdiction of the United States District Courts that vast array of controversies which heretofore have been raised in the state tribunals by challenges founded upon the 14th Amendment to the United States Constitution. Conceivably, every state college student, upon

¹ Koblitz v. Western Reserve University, 11 Ohio C.C. Dec. 515 (1901).

² 28 U.S.C.A. Sec. 1343 (3) 1950.

dismissal from such college could rush to a Federal judge seeking review of the dismissal.¹

Only two years later, in 1961, a U.S. Court of Appeals in Alabama held that due process required notice and some opportunity for a hearing before students at a tax supported college could be expelled for misconduct.

On March 4, 1960, President H.C. Trenholm of Alabama State College, acting pursuant to instructions of the State Board of Education, expelled nine students. President Trenholm had testified before the board that the action of these students in demonstrating on the college campus and in certain downtown areas was having a disruptive influence on the work of other students at the college. Because of these actions he could not control future disruptions and demonstrations. No formal charges were placed against these students and no hearing was granted any of them prior to their expulsion.

The court said it is not enough to say that the right to attend a public college or university is not in and of itself a constitutional right. The court went on to say that one may not have a constitutional right to go to Bagdad, the government may not prohibit one from going there unless by means consonant with due process of law.

The court disagreed with the State Board which claimed that the college may also at any time decline to continue to accept responsibility for the supervision and service to any student with whom the relationship becomes unpleasant and difficult. The court declared that the State cannot condition the granting of even a privilege (attending college) upon

¹Steier v. N.Y. State Education Commission, 271 F. 2d 13 (1959)

the renunciation of the constitutional right to procedural due process.

The court spoke further of the precise nature of the private interest involved in the case, that education is vital and indeed basic to civilized society. Without sufficient education the plaintiffs would not be able to earn an adequate livelihood, to enjoy life to the fullest, or to fulfill as completely as possible the duties and responsibilities of good citizens.¹

The court differentiated the responsibilities of private and public colleges, admitting the validity of regulations by private colleges that have the effect of reserving to the college the right to dismiss students at any time for any reason "without divulging its reason other than its being for the general benefit of the institution."

Cases involving public, tax supported institutions all involved the question whether the hearing given to the student was adequate. The court quoted Professor Warren A. Seavey of Harvard:

It is shocking that the officials of a state educational institution, which can function properly only if our freedoms are preserved, should not understand the principles of fair play. It is equally shocking to find that a court supports them in denying to a student the protection given to a pick-pocket.²

The Court pronounced finally, that due process requires notice and some opportunity for hearing before a student at a tax supported college is expelled for misconduct...

In the instant case, the student should be given the names of the witnesses against him and an oral or written report on the facts to which each witness testifies. He should also be given the opportunity to present to the Board, or at least to an administrative official

¹St. John Dixon v. Alabama State Board of Education, U.S. Court of Appeals 294 F.R. 2nd Series 1950 (1961).

²Warren A. Seavey, 70 Harvard Law Review 1406, 1407 (1958).

of the college, his own defense against the charges and to produce either oral testimony or written affidavits of witnesses in his behalf.¹

The student personnel worker must be prepared to see more students take to the state and federal courts to secure their continuance in colleges, whenever disciplinary action threatens. Realizing that a new meaning is being applied to liberty--the right to pursue one's interest, to wit, a college education, the courts have forced the college to open a new interest in the due process protection of the Fifth and Fourteenth Amendments.

The state legislature of Oklahoma, in order to insure that the rights and privileges of the college student were upheld, placed in the statutes of Oklahoma a law that generalized procedural due process. A brief survey of this law, Oklahoma's New Administrative Procedure Act, follows.

The Administrative Procedure Act of Oklahoma

As Pertains to the Personnel Administrator

The 1963 session of the Oklahoma legislature enacted that state's first comprehensive administrative procedure code.² It covers rule making, adjudication and procedures for judicial review. It applies to all but a few of the state's administrative agencies. The Tax Commission and the Corporation Commission, whose bodies were already equipped with adequate procedures elected not to come under the new system. Two other

¹St. John Dixon v. Alabama State Board of Education, 294 F.R. 2d, 1950 (1961).

²Oklahoma, Statutes, Title 75, Secs. 301-325, (1963 Supp.).

agencies, the State Highway Commission and the Public Welfare Commission, were also eliminated.

Other exceptions that are considered standard in such acts are: the legislature, the courts; the Pardon and Parole Board; the Military Department; boards supervising penal, mental, medical, or eleemosynary institutions; local government units, and for certain purposes, the Personnel Board and the Commissioner of Public Safety. Unlike other legislation, Oklahoma's new law applies to students in State institutions of higher learning.¹

This survey will treat chiefly that part of the act that deals specifically with the making of agency rules and their publications. This is of grave concern to the personnel administrator as he attempts to formulate and establish set disciplinary codes.

In respect to the making of rules and their publication, the two main points of interest to the personnel administrator are in respect to the declaratory ruling device (the handbook of student regulations) and to the legislative review of the rules.

The availability of declaratory rulings is limited to the applications of the rules. It does not extend to the statutes. While recognizing that the issuance of a declaratory ruling, such as a college disciplinary regulation, may be declined in the exercise of sound discretion, the Oklahoma Act specifically subjects such a refusal to judicial review, thus giving the applicant, in this case the student personnel administrator, a greater safeguard against arbitrary denials.

¹ Maurice H. Merrill, "Oklahoma's New Administrative Act" Oklahoma Law Review 5 (1964).

The other provision that should be of main interest to all personnel workers is the one that requires all agency rules (college disciplinary proceedings) be laid before the legislature for examination. A failure to disapprove a rule within a specified time after the convening of the session, or after transmittal of the rule is submitted while the legislature is in session, results in approval. A disapproved rule may not be repromulgated except during the first sixty calendar days of a subsequent legislative session.

The Administrative Procedure Act gives to the student all the protection of the due process clauses of the Fifth and Fourteenth Amendments. Having been stamped with the approval of the legislature, however, it also renders the declaratory rulings device to have the same regulatory effect as a statute.

Summary

Four general headings categorize legislation on the granting of disciplinary authority to the institution:

1. A direct grant to the faculty for disciplinary authority.
2. Direct grants of authority to boards with authorization for them to delegate power to the faculty.
3. Direct power to the board without mention of the faculty.
4. A general grant of power to the board without specifically mentioning discipline.

The Oklahoma legislature has seen fit not to mention discipline specifically, but confers upon the Boards of Regents general authority to make rules and regulations for the institution.

For many years, the power that officers of a college could lawfully exert to restrict and control the actions of their students was based upon an ancient doctrine of the common law--that the schoolmaster stands in the same position with respect to his students as that of a parent--in loco parentis--and he could therefore direct and control their conduct to the same extent as a parent.

The courts have been reluctant to interfere with the power and authority of a schoolmaster to discipline his students and expel them if, in his opinion, their presence on the campus was undesirable.

In recent years, however, the courts of our nation have begun to question the principle of in loco parentis and more is being heard of "due process" in matters of disciplinary procedures. Colleges find themselves increasingly involved in matters of due process. Court cases have arisen in all sections of the country forcing the college to open a new interest in the due process protection of the Fifth and Fourteenth Amendments.

The state legislature of Oklahoma placed in the statutes of this state a law that generalized procedural due process. This law applies to students in State institutions of higher learning.

The law holds special interest to the personnel administrator because the list of agency rules and regulations, which in the case of the student personnel director is the handbook of college disciplinary regulations and procedures, must be reviewed by the state legislature. If then, a specific regulation is declined, the Oklahoma Act specifically subjects such a refusal to judicial review, thus giving to the personnel administrator a greater safeguard against arbitrary denials.

A failure of the legislature to disapprove a rule within a specified time results in approval. This renders the disciplinary rules and procedures of the respective institutions to have the same regulatory effect as a statute.

CHAPTER III

STATE STATUTES

REGULATING STUDENT BEHAVIOR

State legislatures have undertaken the task of fostering institutions of higher education and of exercising a measure of control over them. The authority for the operation of an institution of higher education is derived from a corporate charter granted by the state legislature.

All institutions of higher education in the United States are incorporated and all of them have governing boards. Every charter or basic statutory law of public institutions must specify the composition of its corporate board or governing body. This board has the legal authority and responsibility for the management of an institution.

In addition to its charter every college is subject in all its activities to the fundamental law of the land, which consists of the Constitution of the state in which the institution is located, and the Constitution of the United States.

The state may not change the charter of a privately controlled institution without the consent of the institution's trustees. This legal principle was established in the Dartmouth College case¹ by the

¹Trustees of Dartmouth College v. Woodward, 4 Wheatland (U.S.) 518, (1819).

United States Supreme Court in 1819, in which the decision was reached that a charter granted without reservation is a contract between a state and a corporation and that any state action impairing the obligation of a contract is in violation of the contract clause of the United States Constitution and thus void.

Those charged with administrative responsibility for an institution of higher education must be cognizant of the authority with which those outside the institution are vested. It is well established in law that the reasonable regulation of colleges and universities is within the police power of the state. Under particular circumstances and under particular constitutional provisions, the courts have ruled upon the validity of statutes relating to colleges and universities. The constitutional and statutory provisions relating to the institutions of higher education, plus the judicial decisions by which they have been interpreted, constitute a wealth of pertinent information to all concerned with student personnel programs in the colleges of Oklahoma.

State support of higher education is a factor of increasing importance in America, as over sixty per-cent of the students in higher educational institutions for the year 1965-1966 were enrolled in institutions under state control.¹ In some cases the state university is a corporation which is given a constitutional sphere of authority making it an independent arm of the state, immune from interference by any

¹United States Department of Health, Education, and Welfare, Office of Education, Opening Enrollment in Higher Educational Institutions, Fall, 1965, Circular No. 496 (Washington: United States Government Printing Office, 1966).

arm of the state government except for its dependence on legislative appropriations.¹ In a majority of the states, however, the state colleges are corporations of legislative creation and wholly subject to legislative control and statutes. As evidenced by the detailed breakdown of statutes concerning student behavior as found on page 165, Appendix A, there is a paucity of statutes among the states which has direct bearing upon the conduct and control of students in colleges and universities.

The special statutes that have been enacted in the state legislature that specifically pertain to the morals and conduct of the college student are discussed under the following general categories: Unapproved Housing, Illegal Mass Activity, Disorderly Conduct, Theft, Gambling, Misuse of Privileges and Fraud, Assorted Legislation, Alcoholic Beverages, Academic Offenses, and Automobile Cases.

Where no general category is discussed, there was no state statute found regulating the offense.

Alcoholic Beverages-Undesirable Influences

Although no statute exists regulating consumption of alcohol on the college campus, ten states have statutes concerning the sale of intoxicating beverages near college campuses. These statutes concerning the sale of intoxicating beverages bear on student conduct only insofar as they make it more difficult for the student to obtain liquor

¹These universities are as follows: University of Colorado, University of California, University of Idaho, University of Michigan, Michigan State University, University of Minnesota, Oklahoma State University. (See W.P. Woodsen, "State Universities - Legislative Control of a Constitutional Corporation," Michigan Law Review, 55 March, 1957, pp. 728-730.

or beer. The importance of these statutes rests in the fact that through the restriction of the sale of liquor near college or university campuses, legislation does affect, to a minor extent, the behavior of students. It may be of historical and sociological significance to note that most of the legislation took place prior to or in the 1930's, but the laws are still in existence today. In 1935 the Georgia legislature passed the following statute: "No alcoholic beverage of any kind shall be sold upon any church, school ground, or college campus, or within one-hundred yards of such grounds or campus. Any violation of this section shall be a misdemeanor."¹

In 1936 a Mr. Peter Chivillis brought a petition to enjoin the marshal of the city of Athens, Georgia from proceeding against him for an alleged violation of this act of 1935. Chivillis avowed that this statute did not pertain to him, and that the marshal had arrested one person and was threatening to arrest others, thus ruining his business. In refusing to grant an injunction for the sale of beer by Chivillis, the court upheld the constitutionality of the act of 1935.²

As each state has passed legislation concerning the minimum age of the consumption of beer or liquor by an individual, no attempt is made here to cover all the statutes within the fifty states which are relevant to the drinking restrictions for students of college age. This control is placed upon the student by the respective colleges' regulations.

Attempts to keep undesirable places away from the college campus are seen in the statutes of New Mexico, North Carolina, and Ohio con-

¹Georgia Code, Annotated (1935), Sec. 58-724.

²Chivillis v. West, 182 Georgia 379, 185 S.E. 348 (1936).

cerning brothels, houses of prostitution, and bawdy houses. In Ohio the statute pertains only to one college in the entire state and was originated in 1889: "No person shall sell or offer to sell or give away intoxicating liquor or keep a house of ill fame at or within two miles of Central State College, (formerly Wilberforce College)."¹

The Oklahoma law prohibits a package store within three-hundred feet of any church property or public school.²

However, in North Carolina and New Mexico, the statutes are not so discriminating and are made applicable to all colleges and universities within the respective states. The brothel, bawdy-house, house of assignation or prostitution must be at least seven-hundred feet away from the college in New Mexico.³

If this regulation is not followed, the guilty party shall be fined not more than \$100 and imprisoned in the county jail for not more than sixty days or both. In the state of North Carolina "lewd" women cannot be within three miles of colleges or boarding schools. However, should the guilty party be apprehended, the penalty is less severe than the penalty in New Mexico, where "...she shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding \$50 or imprisoned not exceeding thirty days..."⁴

North Carolina has enacted two other laws designed to protect students of the University of North Carolina, Chapel Hill, North Carolina, against undesirable influences. One such law was enacted in 1794.

¹Ohio Revised Code, Annotated (1953), Sec. 4399.13.

²Oklahoma Statutes, Title 37 Sec. 534 (1961).

³New Mexico Statutes (1953), Sec. 4032.

⁴General Statutes of North Carolina (1951), Sec. 14-198.

This statute which is still in effect pertains to billiard tables, bowling alleys, and games of chance:

No person, firm or corporation shall apply for, or receive any license of authorization to set up, maintain or keep in Chapel Hill, or within five miles thereof any public billiard table or other public table of any kind, by whatever name called, at which games of chance or skill may be played, without first obtaining written permission from the president of the University of North Carolina. Nor shall any person, firm, or corporation apply for or receive a license from any such governing body or its representatives thereof to keep, maintain or operate within the town of Chapel Hill or within five miles of the boundaries thereof any house, place or establishment wherein tenpin alleys, bowling alleys, or other games of chance or skill shall be operated or conducted without first obtaining written permission therefor from the president of the University of North Carolina.¹

The other statute of North Carolina which is very similar to the above in wording was enacted in 1824 and pertains to amusements and entertainments.

The state of Washington enacted a statute in 1923 making it unlawful for any person to keep, maintain, conduct, or carry on for hire any game of chance within one mile of the grounds of the University of Washington.²

Misuse of Privileges and Fraud

Bootleg Athletic Tickets

An interesting phenomenon within the past fifteen years has been the enactment of statutes prohibiting the sale of tickets at college

¹General Statutes of North Carolina (1951), Sec. 116-42.

²Revised Code of Washington (1951), Sec. 9-47-150.

events over and above the stated price. Georgia passed such a statute in 1943; Connecticut, 1947; Mississippi, 1948, and Wisconsin, 1955. Such legislation does not tend to follow a pattern so far as athletic conferences are concerned. In Georgia and Wisconsin these statutes are applicable only to the colleges in the University System of Georgia and to the University of Wisconsin. However, both the Connecticut and Mississippi statutes encompass all the institutions within the state. If a person or agency sells tickets above the stated price in Mississippi or Georgia, he is guilty of a misdemeanor, but no specific punishment is itemized. However, a person or corporation in Connecticut who sells a ticket at a higher price than the price fixed for admission, "...shall be fined not more than \$100 or imprisoned not more than thirty days or both..."¹ It is a misdemeanor in the state of Wisconsin to either sell or receive a ticket to a University of Wisconsin event, and the punishment is as follows: "...upon conviction, be fined not less than \$10 nor more than \$100 or by imprisonment in the city jail for not more than sixty days."² Texas enacted a statute in 1941 which reads as follows:

Every person who sells or offers to sell any ticket or tickets to any sports event, amusement, or entertainment in the state of Texas for which admission charge is made in excess of the price for said ticket or tickets as printed thereon shall be required before being authorized to do so to procure a license to engage in such activity on application therefor to the Comptroller of Public Accounts of the state of Texas.³

¹General Statutes of Connecticut (1949), Sec. 8666.

²Wisconsin Statutes (1955), Sec. 36.50.

³Annotated Texas Penal Code (1941), Art. 1137.

Although colleges and universities are not mentioned in the words of this statute, the Texas State Supreme Court rules that "sports event" includes a college football game.¹ An individual prior to the University of Texas and Southern Methodist University football game offered to sell to a plain clothes man two \$3.00 tickets at a price of \$15.00 each; the court fined him \$100 and sentenced him to jail for fort-five days.

Bribery in Athletic Contests

Thirty-four states have laws governing bribery in athletic contests. Oklahoma law is specific in the control of bribery and little is left to the school personnel administrator in the formation of his respective college's regulations.

The Oklahoma statute reads:

Whoever corruptly gives, offers or promises any gift, gratuity or thing of value to any player, participant, coach, referee, umpire, official or any other person having authority in connection with the conducting of any amateur or professional athletic contest with the intent to influence the action, conduct, judgment, or decision of any such person in such contest, upon conviction shall be punished by imprisonment in the State Penitentiary for not to exceed five (5) years; or by a fine of not to exceed three thousand dollars (\$3,000.00) and imprisonment in the county jail for not to exceed one (1) year.²

Academic or Related Offenses

Cheating

Only two states, North Carolina and New York, have felt it necessary to enact statutes pertaining to cheating in college examinations. No

¹Humphrey v. State, 152 Cr. 203, 212 S.W. (2nd) 159 (1948).

²Oklahoma Statutes, Title 21, Section 399, (1961).

other states have made specific mention of cheating in college examinations.

It is a misdemeanor within the state of North Carolina to tamper with examination questions: "Any person who purloins, steals, buys, receives, or sells, gives or offers to buy, gives or sells any examination questions or copies thereof of any examination, before the time of the examination, shall be guilty of a misdemeanor."¹

The New York statute gives a broader meaning to the term of cheating but restricts its authority to the schools within the University System of New York. In addition to the provisions made in the North Carolina statute, the New York statute makes it unlawful for a person to impersonate or offer to impersonate the person eligible to take the examination. For the first offense the act is classified as a misdemeanor with a penalty of not less than \$50 or imprisonment of not less than thirty days or both.²

Assorted Statutes

Use and Possession of Firearms

Although many colleges and universities have regulations concerning the use and storage of firearms, Mississippi is the only state that makes it unlawful for a college student to have any type of deadly weapon on any campus within the state or within two miles of any college campus.³

¹General Statutes of North Carolina (1950), Sec. 14-401.

²Consolidated Laws of New York, Annotated (1944), Sec. 16-2255.

³Mississippi Code, Annotated (1942), Sec. 2-2085.

There are general laws in other states prohibiting the use of a firearm by any person, but Mississippi is the only state that specifically mentions college students.

Membership in Fraternities

Mississippi is the only state that has a statute directly affecting membership in fraternities in its state universities and colleges. The following statute certainly forecloses any institutional discussion about prerequisite averages for fraternity membership:

No student shall be eligible to any organization of this character who has not been in attendance at such institution for at least half a school year and made an average in his or her studies of eighty per-cent or an equivalent thereto for this period and has also a record for good moral character.¹

In 1912 a law was passed in Mississippi which abolished all secret societies among students and prohibited their existence at the University of Mississippi and other institutions partially or wholly supported by the state.² Shortly after the enactment of this law, a Mr. Waugh was refused admission to the University of Mississippi because he refused to sign a pledge which the trustees said he should sign, renouncing his fraternity membership. He was a member of Kappa Sigma at Millsaps College and even though he did not intend to affiliate nor organize a chapter at the University of Mississippi, he would not renounce his former membership on the grounds that it deprived him of his property rights and liberty and denied him equal protection of the law, thus

¹Mississippi Code, Annotated (1948), Sec. 8794.

²University of Mississippi v. Waugh, 105 Miss. 623, 62 So. 827 (1913).

violating the Fourteenth Amendment of the United States Constitution.

However, the court differed with Waugh. In its opinion the legislature merely passed a law for the regulation of an educational institution, and the trustees were merely instruments to carry out the will of the legislature. The educational institutions of the state are under the control of the legislature which may create, abolish, or regulate them, and the courts cannot supervise the wisdom of regulations by the legislature, and all acts of the legislature are valid unless in conflict with the state or the federal constitutions. Defining the relationship of a student to a state university, the court said:

The right to attend an educational institution of the state, is not a natural right. It is a gift of civilization, a benefaction of the law. If a person seeks to become a beneficiary of this gift, he must submit to such conditions as the law imposes as a condition precedent to this right.¹

The United States Supreme Court reaffirmed the state court's decision in 1915. It concurred with the opinion of the state court that the state may require a member of a Greek letter fraternity to renounce his allegiance with the fraternity before admitting him as a student at the state university. It said that the trustees may absolutely prohibit any connection between Greek letter fraternities and prohibit the attendance of students at the meetings of such fraternities or other college secret societies. It may also prohibit the students from having any active connection with them so long as they are students remaining

¹
Ibid., p. 829.

under the control of the university. It clearly stated this basic premise:

The legislature is in control of the colleges and universities of the state and has a right to legislate for their welfare and to enact measures for their discipline and to impose the duty upon the trustees of each of these institutions to see that the requirements of the legislature are enforced, and when the legislature has done this it is not subject to any control by the courts.¹

Loitering Near Women's Colleges

Tennessee and South Carolina have statutes pertaining to loiterers on or near the campuses of women's colleges. The statutes are practically identical in nature, although in Tennessee such action is a misdemeanor: "...and on conviction thereof shall pay a fine of not less than \$5.00 nor more than \$50.00 for each offense on the first conviction."² The South Carolina penalty is somewhat more stringent: "...and on conviction thereof shall pay a fine of not less than \$10.00 nor more than \$100.00 or be imprisoned in the county jail for not less than ten days nor more than thirty days."³

Credit to Minors

In 1825 a Mr. Morse of Connecticut gave credit for food and drink in the amount of \$7.00 to Washington Van Zandt, a student at Yale University who was under twenty-one years of age, without the consent or knowledge of Yale University or Van Zandt's parents.⁴

¹University of Mississippi v. Waugh, 237 U.S. 589 (1915).

²Tennessee Code, Annotated (1955), Sec. 39-1209.

³Code of the Laws of South Carolina (1952), Sec. 22-117.

⁴Morse v. State of Connecticut, 6 Conn. 9 (1825).

The court declared the following statute constitutional which Morse purportedly violated.

That no person or persons shall give credit to any student of Yale College being a minor without the consent in writing of his parent or guardian, or of such officer or officers of the college as may be authorized by the government thereof to act in such cases except for washing or medical aid.¹

The substance of this law continues on the statutory books of Connecticut. The most recent revision is as follows: "Any person who shall give credit to a minor student of any college or university of this state without the written consent of his parent or guardian, or of an authorized officer of such institution shall be fined not more than \$300.00."² The State of Virginia has an almost identical statute pertaining to the issuance of credit for minors.³

The state of Massachusetts had a statute placed on its books in 1819, which read as follows:

No livery stable keeper shall give credit to any undergraduate of either of the colleges within this commonwealth without the consent of such officer or officers of the said colleges respectively as may be authorized to act in such cases by the government of the same or in violation of such rules and regulations as shall be from time to time established by the authority of said colleges respectively.⁴

A Mr. Soper gave credit for \$15.00 to a Harvard undergraduate who was a minor. The court said that the specific law in question was constitutional. Commenting upon the trials of a parent, the court said: "Youth are exposed to temptation which it is difficult for them to re-

¹Ibid., p. 9.

²The General Statutes of Connecticut (1949), Sec. 8678.

³Code of Virginia (1950), Sec. 18-343.

⁴Soper v. Harvard College, 18 Mass. (1 Pickering) 177 (1822).

sist and thus, parents are brought to expense, besides suffering loss of their hope in the education of their child. General law is the only remedy for so great an evil.¹

Disorderly Conduct

Hazing

The area of student behavior which has created the most legislation is that of hazing. Statutory definitions of hazing have several connotations. Some state legislatures interpret hazing to be confined only to disfiguration or physical harm to a student's body.² Other legislatures interpret hazing to mean any act which tends to degrade a student in the eyes of his fellow students. Such a comprehensive definition was adopted by the legislature of North Carolina in 1913: "For the purposes of this section, hazing is defined as follows: to annoy any student by playing abusive or ridiculous tricks upon him, to frighten, scold, beat, or harass him, or to subject him to personal indignity."³ Four of the eleven hazing statutes pertain only to institutions supported by the states. Ten of the eleven statutes were placed on the books before 1920, and the bulk of these ten were enacted around the turn of the twentieth century. The eleventh statute was enacted by the Wisconsin legislature in 1955.

These statutes may have arisen, as in North Carolina, out of hazing incidents which resulted in tragedy. The protests in North Caro-

¹Ibid., p. 177.

²The statutes which confine hazing to bodily harm are found in Louisiana, Wisconsin, and Virginia.

³General Statutes of North Carolina (1951), Sec. 14-35.

lina against hazing were so bitter that several anti-hazing bills were passed in the state legislature on March 12, 1913, only six months after the death of a freshman at the University of North Carolina. The News and Observer of Raleigh, North Carolina reported the incident in great detail on September 14, 1912.¹ Four sophomore students were held on \$5,000.00 bond each for the death of I. William Rand of Smithfield, North Carolina. The sophomores, masked, went to the room of two freshmen and ordered them to dress and go with them at about 1:30 A.M. on September 14, 1912. The boys obeyed, went to the athletic field, mounted a barrel and were forced to sing and dance. Rand's roommate sang and danced on the barrel and fell off of it, cutting his leg slightly. Rand mounted the barrel which was full of crockery, and in the midst of his performance he fell from the barrel and cut his jugular vein on the crockery, dying within minutes after the fall. The repercussion around the state was instantaneous. The accident became headline news and editorial comment was made in all of the newspapers in the state. The news spread rapidly to other states.

From September 14, 1912, to September 29, 1912, there were eleven editorials, twenty news articles, and countless letters to the editors of The News and Observer which were pertinent to the tragedy. On September 19, 1912, The News and Observer stated:

It is reported that among the matters discussed at the meeting on Monday of the Executive Committee of the Board of Trustees of the University was a proposal to make a request of the next General Assembly that it pass a law against hazing making it a misdemeanor, if there is no other way to end hazing in college then the law should step in and take control of the situation.²

¹The News and Observer (Raleigh, North Carolina), September 14, 1912, p. 1.

²Ibid., September 19, 1912, p. 4.

On September 27, 1912, four students were expelled and two were suspended as the result of a faculty investigation on hazing conditions; some of the students suspended were those who had committed acts of hazing the previous year.

Four students were tried in the Orange County Court on March 13, 1913.¹ One was acquitted, and the other three were sentenced to four months in jail with the stipulation they could be hired out. They were immediately hired out by their families. Supporting its contention that the verdict was much too lenient, The News and Observer queried in an editorial entitled "Travesty on Justice":

Is there anything inherently sacred about college pranks or is there some special privilege which hedges about students which places them above the law? We think not and we have the opinion that manslaughter is manslaughter wherever committed and that it should be punished as such.²

Punishments for the offense of hazing differ from state to state. In New York and Ohio the statutes differentiate between hazing as a misdemeanor and hazing as a crime of the degree of mayhem. The differentiation is made in the following manner:

Whenever any tattooing or permanent disfigurement of the body, limbs or features of any person may result from such hazing, by the use of nitrate of silver or any like substance, it shall be held to be a crime of the degree of mayhem and any person guilty of same shall, upon conviction, be punished by imprisonment for not less than three nor more than fifteen years.³

¹There was no court reporter at that time and other than the listing on the docket and newspaper articles there is no official record of the case.

²The News and Observer (Raleigh, North Carolina), March 18, 1913, p. 6.

³Consolidated Laws of New York, Annotated (1944), Sec. 39-1030.

In Ohio if a person tattoos or uses nitrate of silver or other substances to disfigure the body, the person is guilty of mayhem and is imprisoned for not less than three nor more than twenty years.¹ In the states in which hazing is defined in more general terms, the state which seems to provide the least punishment is Colorado: "Punishment for hazing -- any person found guilty of the provision of Section 40-2-37 shall be deemed guilty of a misdemeanor and shall upon conviction be fined not less than \$5.00 nor more than \$50.00."²

Colorado, Ohio, and Texas all have specific articles in their statutes forbidding officials of educational institutions to aid or abet hazing; the penalty in Colorado is dismissal; in Ohio, a fine levied not to exceed \$100.00; and in Texas, the following severe penalty is meted out:

Any teacher, instructor, or member of any faculty or official or director of any such educational institution who shall commit the offense of hazing shall be fined not less than \$50.00 nor more than \$500.00 or shall be imprisoned in jail not less than thirty days nor more than six months or both, and in addition thereto, shall be immediately discharged from, and shall be ineligible to reinstatement for a period of three years.³

Colorado makes it mandatory for the faculty of the state universities to expel students for hazing. Private institutions, however, are not required to expel students for hazing unless they deem such action advisable. Texas, Louisiana, North Carolina, and Virginia, make it mandatory for all the college faculties to expel any student found

¹Ohio Revised Code, Annotated (1953), Sec. 2901.22.

²Colorado Revised Statutes (1953), Sec. 40-2-37.

³Texas Penal Code (1940), Sec. 1155.

guilty of hazing. Pertinent sections of the North Carolina statute are as follows:

Upon conviction of any student of the offense of hazing, or of aiding or abetting in the commission of this offense, he shall in addition to any punishment imposed by the court, be expelled from the college or school he is attending. The faculty or governing board of any college or school charged with the duty of expulsion of students for proper cause shall, upon conviction at once expel the offender, and the failure to do so shall be a misdemeanor.¹

Summary

Those charged with administrative responsibility for an institution of higher education must be cognizant of the authority with which those outside the institution are vested. It is well established in law that the reasonable regulation of colleges and universities is within the police powers of the state.

In some cases the state university is a corporation which is given a constitutional sphere of authority making it an independent arm of the state, immune from interference by any arm of the state government except for its independence on legislative appropriations. In a majority of the states, however, the state colleges are corporations of legislative creation wholly subject to legislative control and statutes.

Special statutes governing the conduct and control of student discipline have been legislated. Most of the statutes, however, were prior to the 1930 era. Thirteen of the statutes were passed before the turn of the century and only two were noted as having been passed after

¹General Statutes of North Carolina (1951), Sec. 14-36.

1961.

While individual states have enacted legislation affecting the behavior of the college student, the statutes are outdated and far removed from the realities of campus life. If the statutes are to be valuable they must be consistent with the mores of society, and since the mores are in a state of flux, legislation should be flexible. In cases where the statutes merely exist, but are not recognized by the lay public or the colleges, these statutes should be eradicated.

CHAPTER IV

THE INFLUENCE OF THE COURTS IN REGULATING STUDENT BEHAVIOR

The growth and importance of education in this country have raised numerous questions concerning the relationship existing between a student and the school he attends. On occasion the decisions of the lower courts have been appealed to the higher state courts for a determination and interpretation of the legal rights and liabilities of the students.

In regard to conduct and discipline, any college or university may make and enforce reasonable regulations for the conduct of its students and it may suspend or expel students for failure to conform to such regulations. The courts will not interfere between the institution and the student in matters of conduct and discipline unless the regulation in question is shown to be clearly unreasonable, unlawful, or contrary to public policy, or unless the action of the institution is shown to have been clearly arbitrary or malicious.¹ As evidenced by the litigation in the cases that follow, courts have been liberal, if not altogether consistent, in ruling upon the reasonableness and

¹M.M. Chambers, The Colleges and the Courts Since 1950 (Danville, Ill: Interstate Publishers, Inc., 1964) p. 26.

legality of college and university regulations brought before them. What is reasonable in one part of the country may not be reasonable in another, and what was reasonable in 1900 may not be reasonable in 1967. Changing conceptual patterns, due to fluctuating social and economic patterns, have had a marked influence on the interpretation of a "reasonable regulation."

The governing board of the college and university ordinarily regulates the behavior of the student through the enforcement of rules which it makes under the explicit or implicit powers granted by its corporate character. However, it may delegate its power to control the behavior of the students to the faculty or the officers of the institution. In an attempt to enforce its rules about student behavior, attendant punishments upon students often range from admonitions and reprimands to suspension and expulsion.

In practically all cases of litigation concerning behavior of students the act of suspension or expulsion is involved. Some cases almost defy categorization, but for the purpose of this study all types of behavior which have resulted in litigation have been placed into ten general categories which are:

1. Unapproved housing.
2. Illegal mass activity.
3. Disorderly conduct.
4. Theft.
5. Gambling.
6. Misuse of privileges and fraud.

7. Assorted misconduct.
8. Alcoholic beverages and undesirable influences.
9. Academic or related offenses.
10. Automobile cases.
11. Violation of probation and habitual trouble-making.

Unapproved Housing

Dismissal Because of Housing Regulations

Grace Castleberry, a student at Tyler Commercial College, secured rooms on August 20, 1918, in one private home and boarded in another.¹ On November 17, 1918, the college asked seven girls in a rooming house to move to another rooming house. Castleberry refused to move; the college expelled her on November 21, 1918. Since the catalogue stated that the college reserved the right at all times to regulate board in homes, the court construed board to mean lodging, also and ruled that she should move, and, if she did not, she was subject to expulsion.

A more recent case which did not involve any disciplinary measure pertained to the institution's right to make certain rules regulating housing.² After World War II the University of Oklahoma, as did many institutions across the land, faced an influx of veterans for whom it did not have adequate housing. While new residence halls were being constructed, students lived in private homes. In 1951 after the tidal wave of veterans had passed, pressure was brought to bear upon students

¹Castleberry v. Tyler Commercial College, 217 S.W. 1112 (1919).

²Mary Pyeatte v. Board of Regents of University of Oklahoma, 102 Fed. Supp. 407, affd. 72 S. Ct. 567 (1951).

to live in residence halls. Mary Pyeatte, who owned a rooming house in Norman, Oklahoma, filed suit against the University stating that such pressure deprived her of her liberty to contract and it deprived her of her property without due process of law. The court disagreed:

When a state acting in a proper sphere passes regulations which are valid and suitable to attain a desired end, mere fact that such legislation of regulatory measures have an incidental effect upon a few individuals does not make the regulation invalid or abridge constitutional rights of the individual. The state has a decided interest in the education, well-being, morals, health, safety, and convenience of its youth. When a situation arises where it becomes necessary for rules to be passed to provide payment for such buildings, such rules will be valid as a means of accomplishing the over-all policy of furnishing the needed facilities.¹

The University of Georgia was faced with a similar situation, and the court's judgment was in harmony with the Oklahoma ruling that a rule requiring students to occupy new buildings at the University of Georgia was not an abuse of discretion by the Regents of the University System.²

Disorderly Conduct

Dismissal Because of Disorderly Conduct

The first case of disorderly conduct to appear before the courts occurred in 1886.³ It is significant to all who are concerned with the behavior of students. On November 16, 1886, a faculty meeting was held at Dickinson College, a small liberal arts college, in Carlisle, Penn-

¹Ibid., p. 407.

²State v. Regents of the University System of Georgia, 179 Ga. 210, 175 S.E. 567 (1934).

³Commonwealth v. McCauley, 3 Pa. Co. Ct. R. 77 (1886).

sylvania. One of the items on the agenda of the meeting was the "riotous conduct" consisting of a few students singing, shouting, and throwing stones. Hill, one of the offenders, was called to the faculty meeting and was told: "The faculty are satisfied that you were connected with the riotous conduct of Tuesday and they have asked you to come in that you might make any statement in regard to the matter you may wish, if any."¹ Hill admitted singing and shouting but denied that he had been throwing stones. The faculty decided, however, that "his further continuance in the college would be prejudicial to the order of the college and other best interests of the students and that he therefore should be dismissed from the college and be required to leave Carlisle within twenty-four hours." He left but applied to the court for a writ of mandamus which would compel the college to readmit him.

The question that the court had to decide was whether or not Hill was dismissed for a cause which would justify such action on the part of the faculty and whether the hearing or trial was in accordance with a lawful form of procedure. It was urged on behalf of the college that the courts may not inquire into a complaint that a student had suffered unmerited injuries at the hands of his instructors so long as the latter aver them to have been disciplinary in character, and that such interference by the courts would put an end to all discipline. However, these arguments did not impress the court. In the court's opinion a college chartered for the education of the youth of the state and having received pecuniary aid from the state cannot dismiss a student on the charge of disorderly conduct except by a hearing or

¹Ibid., p. 81.

trial in accordance with the law. It ruled that the student should be entitled to hear charges preferred against him and to hear the proof with an opportunity to question the witnesses. Since this was not done, the court of common pleas issued a writ of mandamus to allow Hill to be reinstated at Dickinson College.

However, in the years intervening other courts have ruled that a formal hearing is not necessary.¹ Applicable cases will be discussed in another portion of this chapter.

In 1892 the New York court decided that a law school may refuse a contumacious student a degree, but it may not refuse to give him a certificate showing that he attended lectures and passed a satisfactory examination.² The facts of an illustrative case indicate that a student committee was appointed by the graduating class to make arrangements for a commencement, secure a hall, and engage a speaker. The committee, by a majority vote, decided to invite a clergyman of one denomination to offer the opening prayer and one of another denomination to pronounce the benediction. On June 2, 1892, the Dean recommended to the committee not to engage a clergyman as it would set a precedent in a school where many faiths were involved, and the committee agreed to

¹The following decisions held that a college student was not entitled to a hearing: Harry Koblitz v. Western Reserve, 21 Oh. Cir. Ct. 144, 11 Oh. Cir. Dec. 515 (1901); State v. Clapp, 81 Mont. 200, 263 p. 433 (1928); State v. Hyman, 180 Tenn. 99, 171 S.W. 2nd 822 (1942); People of the State of Illinois v. The Board of Trustees of University of Illinois, 10 Ill. App. 2nd 207, 134 N.E. 2nd 635 (1956) Goldstein v. New York University 76 App. Div. 83, 78 NYS 739 (1902); White v. Portia Law School 274 Mass. 162, 174 N.E. 187 (1931); Barker v. Trustees of Bryn Mawr, 278 Pa. 121, 122 At. 220 (1923); Deehan v. Brandeis University, 150 F. Sup. 626 (1957); Anthony v. Syracuse, 224 App. Div. 487, 231 NYS 435.

²People v. New York Law School, 68 Hundred 118, 22 N.Y.S. 664 (1893).

follow the Dean's recommendation. On June 3, 1892, the Dean heard that the degrees would be given by Bishop Doane, one of the regents. The faculty decided the Bishop should conduct the religious exercises also, and this action was relayed to the class committee. O'Sullivan and eight or ten other students remonstrated against the action of the faculty and said they would not attend commencement unless the action was reversed. O'Sullivan interviewed the Dean and reportedly showed "contumacious conduct" toward the Dean. The question before the court turned on whether the conduct of O'Sullivan was such as to justify the Dean's refusal to give him a degree or a certificate showing that he had attended lectures and had passed a satisfactory examination. The court found that when a student is guilty of contumacious conduct, it is within the discretion of the faculty to refuse him his degree, and the fact that the objectionable conduct occurred between final examinations and the day of graduation is immaterial, as the college has the right to discipline its students during this period. However, the student was entitled to a certificate showing that he had attended school and had passed the final examinations satisfactorily.

Western Reserve University, in 1901, became involved in a case which has since proven to be a significant precedent in defining the relationship between the college and the university and that of the student.¹ Koblitz was admitted to the Western Reserve Law School in 1899 as a special student. On March 15, 1900, the Dean of the law school told him his continuance at the school was undesirable. He

¹Koblitz v. Western Reserve University, 11 Ohio Cir. Dec. 515, 21 Ohio Cir. Ct. 144 (1901).

continued to attend until June, 1900, but was not allowed to return in September. During this period he had been arrested twice for criminal charges, had used threats and abusive language, had engaged in disorderly conduct, was a poor student, and in general, was an undesirable element on the college campus. The court, in considering to what extent the state should interfere with the affairs of a university which is also a corporation, made several important points. The first point was that the state will not interfere with the government and internal affairs of a corporation where there has been no evidence of arbitrary abuse of administrative discretion. Secondly, any student who attends an institution of higher education agrees to perform numerous obligations, and, if he fails to do so, the university is justified in dismissing him from the institution.

When the lawyers for Koblitz argued that he had not been given a fair trial by the University of the type ruled necessary in the Dickinson case, Hill v. McCauley, Judge Caldwell's opinion was diametrically opposed to the one found in the Dickinson College case. His opinion contained advice to all officials who must deal with student behavior:

Custom, again has established a rule. That rule is so uniform that it has become a rule of law; and if the plaintiff had a contract with the university, he agreed to abide by that rule of, and that rule of law is this: that in determining whether a student has been guilty of improper conduct that will tend to demoralize the school, it is not necessary that the professors should go through the formality of a trial. They should give the student whose conduct is being investigated, every fair opportunity of showing his innocence. They should be careful in receiving evidence against him; they should weight it, determine whether it comes from a source freighted with prejudice; determine the likelihood by all

surrounding circumstances, as to who is right, and then act upon it as jurors, with calmness, consideration, and fair minds. When they have done this and reached a conclusion they have done all that the law requires them to do.¹

Wars and the aftermath of wars gave rise to a type of disorderly conduct that caught the public's eye. On June 11, 1917, at an open meeting, a student from Columbia University said: "We have no love for the kaiser; but as much as we hate the kaiser, we hate still more the American kaiser."² He harangued at great length and said there would be a draft revolution. On June 14, 1917, Columbia University expelled him. Samson, the plaintiff, felt that Columbia University did not have the right to expel him for this. The court concerned itself with the question: "Was Samson guilty of such misconduct as to disentitle him to be continued or did he show himself to be morally unfit to be continued as a member of the student body of Columbia University?"³

The court decided that his continued contact with men and women of impressionable age at Columbia would be bad and he might inoculate them with the poison of his disloyalty. Such conduct as Samson's interfered with the discipline, good order, and fair name of the University, and Columbia was well within its rights in expelling him.

Again in 1921, in New York, a senior at the Albany Law School was expelled by the faculty for engaging in seditious propaganda and for making statements such as "To hell with the American government."⁴

¹Ibid., p. 523.

²Samson v. Trustees of Columbia University in the City of New York, 101 Misc. Rep. 146, 167 N.Y.S. 202 (1917).

³Ibid., p. 203.

⁴People v. Albany Law School, 198 App. Div. 460, 191 N.Y.S. 349 (1921).

The faculty had a hearing and gave the student an opportunity to be heard. After he was expelled, Goldenkoff, the student, wanted the court to issue a writ of mandamus in order to compel his reinstatement. The court ruled that the faculties in their exercise of authority over students must necessarily be clothed with broad discretion. This court felt that the conduct of private schools was considerably less open to public censure than was that of public institutions supported by taxes. However, in either case, though the courts might not control the discretion of the faculties, yet they would determine whether or not the faculty had jurisdiction to act, and if so, whether that jurisdiction was exercised according to lawful procedure, providing a fair trial; in the case in question the court felt that the faculty acted within the scope of its jurisdiction and exercised its discretion to such purpose, that no review of the use of discretion would be made by the court and the writ was denied.

The third case of this type occurred again in New York in 1950.¹ On March 8, 1949, a meeting was scheduled in a Syracuse hotel where O. John Rogge, former assistant attorney general of the United States, was to speak on racial discrimination and civil liberties. At 6:30 P.M. on March 8, 1949, a Syracuse University student was addressing an open air assembly at a street corner urging his hears to attend the scheduled meeting. Speaking in a loud high-pitched voice, he spoke of Mayor Costello of Syracuse as a champagne-sipping bum, President Truman as a bum, and the American Legion as composed of Nazi-gestapo agents. He appealed to colored people, in particular, saying that they did not have

¹Feiner v. New York, 27 N.E. 960 (1950).

rights and should pick up arms and fight. Two police officers tried to get him to dismiss the assembly. He refused three requests to get down before the officers arrested him on disorderly conduct. He was arrested and convicted of violating section 722 of the Penal Code of New York which forbids incitement of a breach of peace. The conviction was affirmed by two New York courts, and both stated that the conviction did not violate the right of free speech. The United States Supreme Court affirmed this decision by a four to three vote.¹ In dissenting from the majority opinion, Justice Black said:

The record before us convinces me that the petitioner, a young college student has been sentenced to the penitentiary for the unpopular views he expressed on matters of public interest while lawfully making a street corner speech in Syracuse, New York. I will have no part or parcel in this holding which I view as a long step toward totalitarian authority. In my judgment today's holding means that as a practical matter, minority speakers can be silenced in any city.²

In equally strong terms Mr. Justice Douglas with whom Mr. Justice Minton concurred, dissented:

Public assemblies and public speech occupy an important role in American life. One high function of the police is to protect these lawful gatherings so that the speakers may exercise their constitutional rights. If they do not receive it and instead the police throw their weight on the side of those who would break up the meeting, the police become the new censors of speech. Police censorship has all the vices of city halls which we have repeatedly struck down.³

Such opinions as the ones above are, of course, at the opposite poles from the opinions voiced in the 1917 and 1921 decisions. It should

¹Feiner v. New York, 340 U.S. 315 (1950).

²Ibid., p. 321, 328.

³Ibid., p. 330-331.

be remembered that these three decisions repressing the freedom of speech were forged in the heat of war and in the hysteria of a post war scare.

In 1927 a case concerning disorderly conduct arose in a residence hall in Missouri.¹ The case was brought to the state court on review of an action for damages amounting to \$8,000.00 for wrongful expulsion of Englehart from a men's residence hall at Southeastern Missouri State Teachers College. Under the honor system of the college there was in effect a rule that any willful act which disturbed the peace and quiet of the hall should be deemed an offense and lights were to be out at 11:00 P.M. On the nights of July 28, 29, and 30, a "jubilee" was held during which time water was thrown out of transoms, fire-crackers were set off, a can was tied to a dog's tail, and "Barney Google" was played on the record player throughout the melee. The melee reached its peak in an all-night stand on July 30, 1927, with only two days left in the school term. The President of the college drew up a pledge for the students to sign which said in part:

...I promise upon my honor, if I am permitted to remain in Albert Hall until August 2, 1927, I will conduct myself as a gentleman. I agree not to abuse the property of the state nor disturb the peace of others in this hall and in every manner to live up to the rules of Albert Hall.²

Twenty-seven men signed the pledge including the plaintiff. The President came to the residence hall at noon and said those who did not sign it had to get out between 3:00 P.M. and 6:00 P.M. that day. Engle-

¹ Englehart v. Serena, 318 Mo. 263, 300 S.W. 268 (1927).

² Ibid., p. 270.

hart, the plaintiff, then decided to erase his name, for he felt, if he signed it, he was admitting that he had abused state property and was not a gentleman. Therefore the housing officer insisted he leave the dormitory which he did after a lengthy argument with the superintendent. The court was faced with the question as to whether or not he had been deprived of the possession of the room he was occupying for which he had paid rent.

The court ruled that the President was fully justified in closing the dormitory immediately, but, instead, as a concession to the students, he let those who would sign pledges remain in the dormitory; his actions were neither unreasonable nor maliciously intended. In restating the President's dilemma, Judge Ragland said: "Apparently he was surrounded by a conspiracy of silence. But the fact is that every student in the dormitory was morally responsible for what was taking place there unless their student government was wholly fiction."¹

It is pointed out clearly in this case that an occupant of a room in a college dormitory does not have the legal rights of an ordinary tenant of real property, nor even those of a lodger, and by taking up residence in a dormitory, he impliedly agrees to conform to all reasonable rules and regulations then in force, and is subject to expulsion if he does not comply with the rules and regulations.

Hazing

Hazing

Although the practice of hazing has long been a bane to educa-

¹ Ibid., p. 272.

tional institutions very few cases pertaining to hazing have reached the higher courts. In spite of the fact that the practice of hazing has often incurred tragic consequences and widespread publicity for an institution, it does not seem to have been dealt with frequently by the courts. In no case has a violation of a hazing statute pertaining to college students reached the state court.

The most spectacular litigation centering around hazing happened not in the United States, but in Canada.¹ Hazing of the first year students had become an annual custom at the University of Alberta in 1932, and the proceedings involved in hazing were tacitly approved by the University. All hazing procedures were controlled and directed by four sophomore students known as the Initiation Committee. On Monday night, Pawlett, with several other freshmen, upon the day of his arrival was forced to leave his bedroom in night clothes, compelled to take off his clothes so as to be left completely nude. The freshmen were forced to drag each other back and forth on the floor of the corridor. After this exercise, each had to take a cold shower. On Tuesday the freshmen, upon meeting the sophomores, were asked this question: "What is the highest form of animal life?" Each freshman was to reply with the stereotyped answer, "a sophomore". For some unknown reason Pawlett refused to answer in this manner, and answered instead the fictional name of "R.B. Bennett." After registering with the Initiation Committee he was given number 213. With the other freshmen, he was compelled to have his clothes disarranged and hair cut in a grotesque manner, but

¹ Pawlett v. University of Alberta, 3 W.W.R. 322 (Alta. 1933).

was singled out for additional abuse because of his R.B. Bennett reply. He had to have his hair cut a second time and R.B. Bennett was painted on his forehead with India ink and could not be taken off. After lunch he was compelled to take a shower. Then, he was ordered to be taken to the upper corridor and "skinassed" five times and "hot-handed". Again, he was dragged on the corridor, and was then forced to face the wall nude and the committee harangued him; from this position he was compelled to crawl naked through an archway formed by the legs of four or five students in line and was repeatedly slapped by upperclassmen with their hands. He was subjected to another cold shower and sent to his room.

On Tuesday night he had to go to a mock court trial of freshmen. He was there charged with preferring, R.B. Bennett to the sophomores and was forced to place his signature on what was known of as a "recantation." After this trial a student noticed that he was talking incoherently and took him to his room and put him to bed. Wednesday, his conduct was such that it aroused anxiety in those who saw him. The janitor came to his room and sat with him for a time, and then felt called upon to report his condition to the Provost.

On Thursday he was sent to the infirmary and was placed in the psychopathic ward where he was declared insane because of the preceding incidents. A year later, at the time of the trial, he was still in a mental hospital. The Board of the University urged that no responsibility for the plaintiff could be attached to the Board. Judge Ives in his opinion bluntly replied:

I cannot agree. It is charged with the management of the university affairs. The members of different staffs are engaged and paid by it. It manages the student residence halls and building; it engages and pays the provost who is the chief disciplinary officer of the university. It owes a common-law duty to every student while on the University premises, and in that duty to these plaintiffs the board inexcusably failed.¹

The court awarded the Pawletts \$56,000.00 in damages, although, of course, only the medical profession could aid the boy in regaining his sanity.

In the above case the court concerned itself only with the practice of hazing and restricted its opinion to this area. A Florida case in 1925 was not so clear cut as the case cited above.² Moreover it had many ramifications to it that the Canadian case did not have. Several important principles are set forth in the Florida case. Helen Hunt was suspended by the President of John B. Stetson University on April 6, 1907, for the following offenses in which she took part: (1) hazing the normals, (2) ringing cowbells, (3) parading in dormitory halls at forbidden hours, and (4) cutting the lights. In reversing the action of the lower court for \$25,000.00 against Stetson University the state court said that the university protected itself from any liability for the dismissal of a student by publishing the following statement in its official publication: "A student may forfeit his connection with the University without any overt acts if he is not in accord with its standards." Stetson University averred that it had suspended Miss

¹Ibid., p. 331.

²John B. Stetson University v. Hunt, 88 Fla. 510, 102 So. 637 (1925).

Hunt along with the other students but had not expelled her. In supporting this contention of the University the court defined the terms in accordance with Webster:

Expulsion: Ejecting, banishing or cutting off from the privilege of an institution or society permanently.
 Suspension: Temporarily cutting off or debarring one from the privilege of an institution.¹

In concerning itself with the question as to whether or not the suspension of Miss Hunt was malicious, the court defined malice thus:

Malice in law as defined by the authorities is that condition of the mind which shows a heart regardless of social duty, and fatally bent on mischief, the existence of which is inferred from acts committed or words spoken.²

The record showed that while the President was firm and positive, he did not show any type of malice and he acted in the good faith for the best interest of the school. The President was vested with the proper authority to administer discipline, and standing in loco parentis he had every right to make and enforce regulations. To make the University's position even stronger, the court pointed out again that the relationship between a student and an institution of learning, privately conducted and which receives no aid from the public treasury, is solely contractual in character, and it is implied that the student will conform to the rules and regulations of the institution, and, if he does not, he can be expelled or suspended.

The third case involving hazing occurred at the Kentucky Military Institute.³ Henry Bramblet, along with two other boys, was found

¹Ibid., p. 639.

²Ibid., p. 639.

³Kentucky Military Institute v. Bramblet, 158 Ky. 205, 164 S.W. 808, (1914).

guilty of hazing. The three boys "took a boy and told him to show us more respect, brush up on his control, and we told him to lay across the bed and we flapped him a few times with our belts." This was a direct violation of the rules, and Bramblet was expelled. The father then wanted his tuition back as his son had been in school only thirty days. The court decided with dispatch that there was no case, and the boy was guilty. The opinion was reiterated that unless the rules are unlawful or against public policy, courts will not interfere or revise these rules.

Theft

Dismissal Because of Theft

A case that involved stealing, a malady of most colleges and universities, reached the Pennsylvania state court in 1923.¹ A sophomore at Bryn Mawr College was suspected of stealing within the residence halls, but no definite proof was found against her. The student talked to the Dean about it and denied her guilt. However, while the student was home at Easter vacation, the President wrote and told her not to come back. In refusing a writ of mandamus to the student the court of common pleas said:

It cannot be reasonably or successfully urged, especially in the absence of any prescribed method of hearing or form of procedure, that such must be conducted with all the dignity and form incident to a trial court. The latter are largely prescribed by the constitution, the statutes, and the common law. The authorities of a great educational institution like the defendant college might find much of their time occupied by the trial of such cases, if every time a student were suspected of improper conduct he was

¹Barker v. Trustees of Bryn Mawr, 38 Montgomery Law Reporter 49 (1923).

called upon for an explanation and the fact became noised abroad, he would ipso facto be entitled as a matter of absolute right to a formal hearing.¹

The state court when upholding the lower court's decision pointed out two further factors: Bryn Mawr is a corporation and the relationship between the student and the college is solely contractual and the court has no right to issue a writ of mandamus. Also, where the regulations of a privately controlled college, which receives no state aid, provide that the college reserves the right to exclude at any time students whose conduct it regards as undesirable, the college is not required to prove charges and hold a trial before dismissing a student regarded by it as undesirable.²

Assorted Misconduct

Dismissal Because of Fraternity Membership

While the public has been very much interested in the role of fraternities in college life, only one state, Mississippi, now has a statute on its legislative books pertaining to membership in fraternities. Few cases have occurred in this area.

Illinois was the scene of the first court case regarding secret societies.³ In 1886, Harley Pratt of Wheaton College joined, in violation of the college rules, a secret society known as the Good Templars. The faculty suspended him until he could conform with the rules. The father then applied for mandamus to reinstate his son. The question

¹Ibid., p. 65-66.

²Barker v. Trustees of Bryn Mawr, 278 Pa. 121, 122 At. 220 (1923).

³The People of the State of Illinois v. Wheaton College, 40 Ill. 186 (1866).

faced by the court was whether or not such a rule is within the college authority.

The court reached the decision that there is nothing unreasonable in the rule itself and that it violated neither good morals nor the law of the land, and the college has the right to make such a rule and enforce it. In replying to the plaintiff's argument that he had a legal right to join such an organization, the court said:

When it is said that a person has a legal right to do certain things, all that phrase means is, that the law does not forbid these things to be done. It does not mean that the law guarantees the right to do them at all possible times and under all possible circumstances. A person in his capacity as a citizen may have the right to do many things which a student of Wheaton College cannot do without incurring the penalty of college laws. A person as a citizen has a legal right to marry or to walk the streets at midnight, or to board at a public hotel, and yet it would be absurd to say that a college cannot forbid its students to do any of these things.¹

Almost twenty years later a question concerning secret societies, in a neighboring state, arose.² This time, however, it revolved around a regulation promulgated by Purdue University concerning admission to the University:

No student is permitted to join or be connected as a member or otherwise with any so-called Greek or other college secret society; and as a condition of admission to the University, or promotion therein, each student is required to give a written pledge that he or she will observe this regulation. A violation of this regulation and pledge forfeits the right of any student to class promotion at the end of the year and to an honorable dismissal.³

A pledge was drawn up in accordance with this regulation for all

¹Ibid., p. 187.

²State v. White, 82 Ind. 278, 42 Am. Rep. 896 (1892).

³Ibid., p. 280.

entering students to sign. The pledge consisted of disavowing allegiance to any secret society while a student at Purdue University. Hawley refused to sign this pledge, for if he did so, he would have to renounce his active membership with Sigma Chi. Therefore, he brought application for mandamus to compel his admission to Purdue without signing the pledge.

In stating the court's opinion Justice Niblack said that Purdue is supported by the state legislature to a great extent and that the Board of Trustees could not make membership in a Greek letter fraternity or other secret society a disqualification for admission to the University or require a student to sign a pledge disconnecting him from an organization. Furthermore, the admission of students in a public educational institution is one thing, and the government and control of the students after they are admitted and have become subject to the jurisdiction of the institution is quite another thing. The governing board of a state university in the absence of legislative authority might not refuse admission to a fraternity member.

Justice Woods, however, disagreed with the majority opinion, for he felt that the admission of students and the regulation of them after admission are not two separate things, and that there is nothing degrading in requiring students to sign a pledge.

Thirty-three years later, the United States Supreme Court, in deciding the University of Mississippi v. Waugh case, upheld the right of the legislature to enact a statute whereby students are prohibited from joining secret societies in colleges and universities. Waugh was in an identical position to that of Hawley when he refused to sign a

pledge renouncing his fraternity membership. The Supreme Court in rendering its decision said that the state may require a member of a Greek letter fraternity at another college to renounce his allegiance to that fraternity before being admitted as a student of the state university.

Dismissal Because of Infractions of Specific Regulations

In 1884 when women in colleges were scarce and rules plentiful, Rosa Clark, who lived at home, was expelled from the Missouri State Normal School because she went to an evening party with her brother.¹ The Board of Regents of the college had made a rule prohibiting students from going to parties or entertainments except by permission of the college. The Clarks felt that the permission of her parents should be satisfactory, and the college should readmit her. This rule, restricting students to their home, reached beyond the Board of Regents' sphere of action, in the court's opinion, and the court interfered to prevent its enforcement. The rule in question assumed to exercise control over the student and govern her conduct while under the parental eye, such a rule was without authority, and Rosa was allowed to reenter the school.

A more severe infraction of a regulation occurred when a third year student nurse was expelled for staying out of a dormitory overnight.² The regulation in the catalogue was explicit in its statement that an infraction of the rules would cause a student's dismissal and

¹State v. Osborne, 24 Mo. App. 309 (1887).

²Strank v. Mercy Hospital of Johnstown, 383 Pa. 54, 177 At. 2nd 697 (1955).

transfer of credit would not be given to that student. Acting upon this regulation, the nursing school refused to send a transcript of Miss Strank's to another nursing school. In delivering a judgment the Chief Justice, Pennsylvania Supreme Court, said that the court was without jurisdiction to compel her reinstatement. Here, as in the Bryn Mawr case, the court held that a writ of mandamus could not issue to enforce a right or duty which was not imposed by law but rested solely on contract and thus dismissed the case.

Elizabeth Curry entered the Lasell Seminary in 1897.¹ At the end of six weeks Mrs. Curry asked that Elizabeth spend Sunday and Monday with her. The daughter had already spent three Sundays with her mother, and the request was denied. The mother took her daughter anyway and returned her to the school late Monday afternoon, but the Seminary refused to keep Elizabeth. Its catalogue stated that students were not to be absent from school except during a regular recess. The court held that the regulation was reasonable, and the college was not bound to keep her nor was it necessary for it to return the balance of the tuition.

A case with a parallel decision appeared in the Washington, D.C. courts in 1906 on a petition for mandamus.² The father of Edward Gannon, a freshman at Georgetown College, requested permission for his son to leave college about January 7, 1906, for the purpose of going to

¹ Curry v. Lasell Seminary Co., 168 Mass. 7, 46 N.E. 110 (1897).

² United States v. President and Directors of Georgetown College, 28, App. D.C. 87 (1906).

New York to attend certain family ceremonies. The college wired to the father its refusal to grant permission on January 5, 1906. This telegram was followed by a telephone conversation in which the college said if the father wanted Edward to go, he would have to withdraw him from college. Edward left for New York on January 6, 1906. Gannon received a letter on January 10, 1906, saying his son was expelled, and his effects were being shipped to New York, and a check for the balance of his tuition was being sent to him. Gannon returned the check holding to the rights of a contract and also said the action was unreasonable, arbitrary, and unjust.

The court convened on June 13, 1906, and refused to act on the decision of the lower court, because it averred that the college year had already ended making it impossible for the court to intervene. However, it did cite the fact that the college was a private corporation and had direct power to regulate discipline and it was within its right in disciplining the student.

Dismissal Because of Refusal to Take Military Training

If a student refuses to take military training at a university or college because of his religious beliefs, the university has the right to expel him. This legal principle has asserted itself in the two cases that have come to the close attention of the state courts. The first case occurred in Maryland in 1932.¹ An entering freshmen, a member of the Methodist Church, Ennis Coale, refused to take the required two years military training because it was against his religious conviction. He was suspended from the University of Maryland on October 5,

¹Pearson v. Coale, 165 Md. 224, 167 At. 54 (1933).

1932, because he was unwilling to comply with these regulations. The court rules that the University may suspend him even though his refusal is based on religious convictions. The University of Maryland was established under the Morrill Act of 1862 as a land grant university. Under the provisions of this act the University is bound to offer its students instruction in military tactics although it remains free to determine the details in respect to such a matter. As a citizen, Coale enrolled in the University of Maryland knowing that this regulation was in effect; if his religious convictions were such that he felt unable to take military training, he was free to enter any other college or university in the land that did not have such a regulation.

In California a statute had been enacted that required male students at its state universities to take a course in military science and tactics. The validity of such a statute was questioned by two students on the grounds that it was repugnant to the Constitution and the laws of the United States.¹ The students had enrolled at the University of California in 1933 and had conformed to all the regulations at the University of California except that they refused to take military science and tactics. The students were members of the Methodist Episcopal Church, and in its General Conference of 1928 the church renounced war as an instrument of national policy. The Board of Regents of the University of California suspended the students and the students took their case to the state court. The court upheld the action of

¹Hamilton v. Regents of the University of California, 219 Cal. 663, 28 P. 2nd 355 (1934).

the Regents; still unsatisfied the students' lawyers were able to get the United States Supreme Court to review the case.¹ The United States Supreme Court ruled that such a statute is not repugnant to the due process clause of the Fourteenth Amendment as it is not an undue deprivation of liberty, and it does not violate the privileges and immunities clause.

Dismissal Without Definite Cause

Action taken by colleges and universities throughout the land sometimes appears to be capricious in the eyes of the court. An illustrative case which has given rise to a great amount of controversy occurred in New York. The original decision by the Onandaga Supreme Court² was later reversed by the Appellate Division of the Supreme Court of New York.³ Beatrice Anthony was a student in the Department of Domestic Science or Home Economics at Syracuse University from September 15, 1923, until October 6, 1926. Each semester she had signed cards agreeing to comply with the rules and regulations of Syracuse University. She was dismissed on October 6, 1926, and was advised by the authorities of the University that they had heard rumors about her; that they talked with several girls in her sorority house and found she had done nothing lately but that she had caused a great deal of trouble in the house; and that they did not think her a typical Syracuse girl. The University had felt it had safeguarded itself for such action by

¹Hamilton v. Regents of the University of California, 293 U.S. 245, (1934).

²Anthony v. Syracuse, 130 Misc. 249, 223 N.Y.S. 796 (1927).

³Anthony v. Syracuse, 224 App. Div. 487, 231 N.Y.S. 435 (1928).

publishing in its 1925-26 catalogue the following statement:

Attendance at the University is a privilege and not a right. In order to safeguard those ideals of scholarship and that moral atmosphere which are in the very purpose of its foundation and maintenance, the University reserves the right and the student concedes to the University the right, to require the withdrawal of any student at any time for any reason deemed sufficient to it, and no reason for requiring such withdrawal need be given.¹

The Supreme Court of Onandaga County held that her dismissal was unjust and arbitrary. The reasons for such a decision were manifold. First, it stated that the University had no right to dismiss a student without preferring charges against her and without providing some sort of hearing. In granting a petition for reinstatement, the court said that the provision in the catalogue was not a part of the contract to which a student would be held but that if such provision were considered to be a binding part of the contract, it would be void as against public policy as it was an attempt to reserve to the University the power to dismiss arbitrarily a student without giving a reason. In its concern for the expelled student, the trial court trenchantly condemned such proceedings:

The selection of one's institution of learning is always a matter of deep consideration and care on the part of the parents and of the youth; it is usually made with regard to the prospective student's career in life; once made and followed by long attendance, it cannot without serious loss be changed, and dismissal is pregnant with consequences which may spell the ruination of a life.²

The Appellate Division of the Supreme Court, however, could not concur with this opinion. In rendering its decision it pointed out

¹Anthony v. Syracuse, 130 Misc. 249, 223 N.Y.S. 796 (1927).

²Ibid., p. 802.

that generally, matriculation creates a relationship entitling a student to complete his course work for a degree. The rule reserving the right of a university to dismiss a student at any time was held valid and binding on the student, thus upholding the basis of contract theory. In reversing the lower court's decision, the higher court voiced the opinion that the court would be slow in disturbing the university's authority to dismiss students in order to safeguard the university's ideals of scholarship and moral atmosphere. When dismissing a student no reason for dismissal need be given. The university, however, must have a reason and that reason must fall within one of the two classifications mentioned above. And, finally, the burden was on the dismissed student to establish a breach of contract by the university when it dismissed her. This she had been unable to do, and hence she should not be readmitted to Syracuse University.

The difference of opinion found in the decisions of the New York courts relevant to the Syracuse case, may be seen in the following cases to some extent. In some instances the decisions were reached because of a certain basic legal principle; in other instances the decisions were reached because of the controlling facts in a case.

A case often cited as an authority for the point of view that the relationship between the student and the private college is contractual in nature even though no document was signed was decided in New York in 1891.¹ A Mr. Cecil had completed his full course in medical school except for his final examinations. The faculty apparently made an arbitrary refusal to allow him to take his final examinations or

¹People v. Bellevue Hospital Medical College, 60 Hun. 107, 14 N.Y.S. 490 (1891).

receive his degree. Under these circumstances the court issued a writ of mandamus directing the instructors to permit him to take his final examinations and, if he passed them, to confer upon him the degree of doctor of medicine:

The circulars of the respondent indicated the terms upon which students will be received and the rights which they were to acquire by reason of their compliance with the rules and regulations of the college in respect to qualifications, conduct, etc. When a student matriculates under such circumstances it is a contract between the college and himself, that, if he complies with the terms therein prescribed, he shall have the degree which is the end to be obtained. This corporation cannot take the money of a student, allow him to remain and waste his time (because it would be a waste of time if he cannot get a degree) and then arbitrarily refuse, when he has completed his term of study to confer upon him that which they have promised, namely the degree of doctor of medicine. It may be true that this court will not review the discretion of the corporation in the refusal for any reason or cause to permit a student to be examined and receive a degree: but where there is an absolute and arbitrary refusal there is no exercise of discretion. It is nothing but a willful violation of the duties which they have assumed. Such a position could never receive the sanction of the court.¹

Following a similar argument the Nebraska court issued a writ of mandamus to compel the reinstatement of Thomas J. Majors in the Nebraska State Normal School. In 1897 Thomas J. Majors made application to continue in school. An excerpt of the letter sent to the father is as follows:

Your son, T.J. Majors, Jr., having applied for admission to the State Normal School, the faculty after consideration of the interests of the school, deem it best to refuse the same. This action is taken without reference to his guilt or innocence in matters with which his name has been connected.²

¹ Ibid., p. 490.

² Jackson v. State, 57 Neb. 183, 77 N.W. 662 (1898).

Finding that the faculty had used an arbitrary exercise of power, the Supreme Court of that state made the following statement:

This record discloses no reason for the refusal to allow the relator's son to continue in the school as a pupil. A reason may have existed but it was not shown. So far as this record discloses there was an arbitrary exercise of power or authority on the part of the faculty; a rejection of the pupil because the parties willed it should be so; no exercise of judgment or discretion in the matter, but a mere operation or putting into effect a desire. Under the circumstances and facts shown, the issuance of the writ was proper.¹

One of the leading cases of mandamus jurisdiction appeared in 1907.² A student enrolled in a night law school in 1896; he went to all the lectures he could and paid his fees in full. In 1900 the entire faculty resigned and a new faculty was installed. At the close of the 1900-1901 school year the faculty told him he could not take the examinations because he had attended too few classes and was not known to the faculty. No specific charges were levied against him, nor was he allowed an opportunity to explain his absence. Here, although the institution was privately controlled, the court invoked mandamus. The student's relationship to the college was compared to membership in a corporation: "...if one voluntarily becomes a member of an incorporated society or association whose bylaws provide for expulsion for specified causes, the right of membership is clearly established in the corporate body and may be duly exercised in the manner and for the purposes prescribed."³ In issuing a writ of mandamus for the reinstatement of Colton the court said the university had not given adequate notice.

¹Ibid., p. 664.

²Baltimore University v. Colton, 98 Md. 623, 57 A. 14 (1904).

³Ibid., p. 17.

Absences also played a major role in the decision of the faculty of Lincoln Medical College to expel a married woman.¹ A Mrs. Nelson entered the College in 1902 and attended classes until June, 1906. On June 3, 1906, the Executive Board said she had not passed with satisfactory grades in all courses and she had been absent too much. She had been absent for a few weeks after her child was born; others who graduated had been absent as much as half of the entire year, and the football squad had not appeared for classes until after Thanksgiving. Dean Keys recommended that she be allowed to graduate, but the Board ousted him and put in another Dean. The court in issuing a writ of mandamus to compel the College to give her a diploma said that when the Dean reported to the Board that a student had fulfilled all the demands of an institution and had passed all the examinations, so as to entitle her to a diploma, the Board acted arbitrarily and capriciously in refusing to give a diploma to Mrs. Nelson.

The majority of the state courts, however, have been very hesitant to order the reinstatement of a student in a college or university even though the cause of expulsion seemed to be vague and somewhat arbitrary.

A rather novel decision was reached by a Pennsylvania court in 1891.² A senior at Grove City College, Grove City, Pennsylvania, J.H. Dunn was summarily suspended on October 7, 1890, for an indefinite time without any cause or reason, without any notice of an offense or charges

¹State v. Lincoln Medical College, 81 Neb. 533, 116 N.W. 294 (1904).

²Dunn's Case, 9 Pa. Co. Ct. 417 (1891).

against him, without any opportunity to know his accusers, and without any hearing. Dunn failed in his attempt to have the court issue an order for his reinstatement. In explaining its decision, the court said that Dunn had not gone to the proper authorities with his grievance. According to this court it was only right that Dunn petition the Board of Trustees of Grove City College for a hearing without the interference of the court. As he had failed to petition the Board in his plight, the writ was refused. It should be noted that though this is an early case, no other court has admonished a student to appeal to the Board of Trustees for relief.

A student in a similar plight in a state-supported institution appealed to the court for help.¹ A Mr. Dodd, a qualified student at the Louisiana State Normal College, said he was arbitrarily expelled from that institution by President Tison without having been granted a hearing and without having been consulted. Rather than addressing itself to the nature of the expulsion, the court made its decision on the basis of the nature of the institution. It ruled that the administration of affairs for the Louisiana State Normal College was vested in the State Board of Education which has full and complete power over matters of discipline, and the President, as an employee of the State Board of Education, exercised only that authority granted to him by the Board. Therefore, matters of expulsion should have been handled by the State Board of Education and student should have addressed his complaints to it.

¹State v. Tison, 175 La. 235, 143 So. 59 (1932).

In 1892 a student was dropped from a medical school and the student charged the faculty with bad faith.¹ He, therefore, wanted a writ of mandamus to compel the delivery of his diploma. In refusing to interfere in the case by issuing a writ, the court in defining its relationship to the college made this observation:

In the present instance the defendant college, in passing on the qualifications of the relator, acted as a quasi-judicial body, exercising an ample discretion vested in it by the act under which it was incorporated. The court cannot reexamine the relator as to his qualifications to practice medicine, nor go over the studies in which he is said to be deficient. If it attempted to do so, the relator's road would be easy, for with his experience, imperfect though it may be, he would no doubt pass a better medical examination than any court could be expected to give him. The law wisely intended no such result. It leaves the subject where it belongs, with those qualified to master it.²

An important decision handed down in 1906 by a Wisconsin court has proven to be a leading case in denying mandamus to students.³ A dental department of a medical school refused to give a student a diploma even though he had completed all his requirements. The judicial refusal to order a writ of mandamus was not based on whether or not the college had acted arbitrarily, but rather on the concept of a college as a corporation. The court ruled that mandamus could not be used to compel a private corporation to perform its contract with an individual. Therefore, the student's only alternative was to sue for a breach of contract.

However, only three years later, the state court of Michigan ordered the reinstatement of two students who had been dismissed because

¹People v. New York Homeopathic College, 20 N.Y.S. 379 (1892).

²Ibid., 380.

³State v. Milwaukee Medical College, 128 Wis. 7, 106 N.W. 116 (1906).

they were Negroes after they had completed a year's study. This court commented that although a student may terminate his relationship with a school it does not follow that the school has the same right: "There is no good reason why the law should not recognize as growing out of these relationships a right of relator's receiving in contract to be continued as students by the respondent."¹

Alcohol-Undesirable Influence

Dismissal Because of Drinking

While ten statutes have been enacted in an attempt to keep liquor away from the campus, only one court case has gone to the state level.² A married woman, Janet T. Ingersoll, also a student, lived in a house near the campus. For two years her home had reportedly been a rendezvous for several students. Her husband had acquired a reputation as a bootlegger, but no evidence was produced in court to substantiate this claim. After a dance on December 4, 1926, a group of students were invited to the Ingersoll home. The Dean of Women learned from other people that one woman guest had been under the influence of alcohol and summoned Janet to her office. Janet refused to say whether she had seen liquor served in her home, as she didn't want to get anyone into trouble. The Dean of Women referred the case to the President who referred it to the Advisory Council on Matters of Discipline which was composed of the Dean of Men, the Dean of Women, and the President. On

¹Booker v. Grand Rapids Medical College, 156 Mich. 95, 120 N.W. 589 (1909).

²State v. Clapp, 81 Mont. 200, 263 P. 433 (1928).

December 19, 1926, the Ingersolls were summoned to the Deans' Council. At this time the husband did not deny that he drank, although Janet did deny that she drank. After they had both been suspended, she wished to be reinstated and asked for a hearing. This request was denied.

Therefore, the court was petitioned for a writ of mandamus to compel her reinstatement, and concerned itself with determining whether or not Janet T. Ingersoll had a fair hearing. The court ruled that when she had been called before the Advisory Council and had been informed of the charges against her and was given a chance to explain or deny them, she had had a sufficient hearing. Even though the President later admitted that the expulsion was based partly on erroneous rumors, the court said they would not interfere with the enforcement of disciplinary rules of a state university unless the rules were unauthorized or unreasonable.

However, Justice Galen disagreed with the court's opinion because he felt that the Advisory Council had acted arbitrarily, based on prejudice resulting from rumors. He uttered the following words of caution about condemning a student merely because of suspicion directed against him in consequence of campus gossip:

Arbitrary action is un-American on any theory. At least the relatrix was entitled to have been accorded a hearing. A case of this character should never be before the courts, and would not therein be given serious consideration were administrative officers disposed to perform their simple duty on the premises. Their determination made on facts presented ordinarily should never be disturbed by the courts, but where, as here, they act arbitrarily, it presents a proper case for judicial interference.¹

¹Ibid., p. 439.

As in the preceding case the Michigan court did not weigh the pros and cons of an incident but rather weighed the college's right to the action it took.¹

Alice Tanton was a student at Michigan State Normal College at Ypsilanti during the fall term of 1922. After an investigation made by the Dean of Women she was refused admission for the spring semester. Mrs. Priddy, the Dean of Women, apprised her of the action taken and asked her to explain her conduct which consisted of smoking, riding in an automobile seated on the lap of a young man, and airing her grievances in public. She was one of seventeen young women expelled during the school year for social indiscretions at the college.

Here again, Miss Tanton was desirous of receiving a writ of mandamus to compel her reinstatement. Her lawyers charged that the school authorities sought to set up a double standard when they made a requirement that girls could not smoke, but boys could. The court replied that the fact that the men and professors smoked was not pertinent to this case and said: "Instead of condemning Mrs. Priddy she should be commended for upholding some oldfashioned ideals of young womanhood."² The writ was denied on the grounds that the college had the power to maintain such discipline as will effectuate the purposes of the institution, and there had been no abuse of discretion nor arbitrary action on the part of the college.

However, such was not the decision in an earlier Illinois case concerning smoking.³ A student, Oliver McClintock, enrolled in

¹Tanton v. McKenney, 226 Mich. 245, 197 N.W. 510 (1924)

²Ibid., p. 513.

³McClintock v. Lake Forest University, 222 Ill. App. 468, (1921)

the preparatory school of Lake Forest University in September 17, 1918, and paid his tuition and board fees for the semester which totaled \$500.00. It was reported to the University that on the same day, Oliver was seen in the village smoking cigarettes. On September 18, 1918, he was expelled and he returned to his home on September 19, 1918. Despite this rapid action the University refused to return his money and held the father liable for the second term also. In affirming the judgement of the lower court that the money should be refunded to the father, the Illinois Appellate Court said:

The jury may have found from the evidence that the motive behind this expulsion was not to enforce a high sense of honor in the school, but to enable appellant to retain a large sum of money and to collect a further large sum of money from appellee at the end of the school year without rendering any equivalent therefor. Two other expulsions the same day presumably netted appellant other like sums.¹

Places of Amusement Not in Best

Interest of Student

An incident which gave rise to one of the most often quoted cases happened at Berea College in 1906.² The case was not initiated by an expelled student, but by a proprietor of a restaurant. A Mr. Gott conducted a restaurant in Berea, Kentucky, where the college was and is located. The college made a rule which said: "Eating houses and places of amusement in Berea not controlled by the college must not be

¹Ibid., p. 477.

²Gott v. Berea College, 156 Ky. 376, 161 S.W. 204 (1913).

entered by the students on pain of immediate dismissal."¹

During the first few days after the rule was made, two or three students were expelled for violating this rule. Gott said this rule was ruining his business, and the college was being malicious in forbidding students to enter the restaurant.

The courts stated that the rule was a reasonable one and within the power of college authorities to enact. The role of the college as a parent was clearly brought out in the opinion that the college authorities stand in loco parentis, and they can make any rules or regulations for the government of the student as would a parent and the wisdom of the rules are left solely to the discretion of the parents and the institutional authorities. The principle is again cited that a college or university has the right to make its own rules, and a student agrees to conform to such rules. In the court's opinion the school has virtually complete authority over the student: "There is no question that the power of school authorities over pupils is not confined to schoolroom or grounds but to extend to all acts of pupils which are detrimental to the good order and best interest of the school."² Along

¹This regulation is still in effect, though somewhat modified. On p. 35 of the 1965-1966 Handbook of the Association of Berea College Students under Article VI the following regulation is found: "The Senate accepts the responsibility for requesting students to patronize only those eating establishments which maintain proper standards. Proper standards include: A. Meeting continuously Grade A standards of the State Department of Health and keeping on display a current Grade A rating card. B. Welcoming all Berea students who wish to patronize their businesses. C. Stating they would cooperate with the Association in upholding their regulations and in discouraging offensive behavior or offensive language in their establishments.

The Senate investigates annually the official list of eating establishments to determine which of them meet Association standards. The Communications Committee makes public their official list by November 1."

²Gott v. Berea College, 156 Ky 376, 161 S.W. 204 (1913).

with the above opinions the court in denying a writ of mandamus pointed out that Gott had no right to complain for he was neither a student nor a parent of a student.

A case somewhat similar to the Kentucky case arose in Ohio. The owner of a peice of property across the street from Wilberforce University would not let it be patronized by students regardless of the proposed purpose of the establishment. In this instance the clear cut decision of the court was that such a rule could not be made unless there is evidence that the business establishment in question would influence the students' morals unfavorably. It is interesting to note that in the Gott v. Berea decision, the court in its zeal to uphold the college's right to make regulations did not concern itself with the question as to whether or not the restaurant influenced the students' morals unfavorably. The Ohio court alluded to the Kentucky decision in the following manner:

We may assume that Wilberforce University, operating under dual control of the Church and the State of Ohio, must be considered as a public institution, the rights of which institutions to promulgate rules and regulations are more critically viewed by the courts, Gott v. Berea College, supra, may be distinguished from the instant case in that it was a private institution and the rule under consideration was general and uniform in scope and operation.¹

Academic Related Offenses

Dismissal Because of Dishonesty

The first decision pertaining to academic dishonesty in colleges was reached in Tennessee in 1942.² Several students were expelled from

¹McGinnis v. Walker, Court of Appeals of Ohio #469, 40 N.E. 2nd 488 (1941).

²State v. Hyman, 180 Tenn. 99, 171 S.W. 2nd 822 (1942)

the medical department of the University of Tennessee for stealing examination questions and then selling them to fellow students. The Student Council and the Dean of Men heard the testimony of the students and recommended expulsion. The Dean of Men then notified the students to meet with the faculty. Sherman, one of the guilty students, refused to attend this meeting. The guilty students appealed to the Board of Trustees which upheld the action of the Student Council and the faculty. Sherman brought this matter to the court on the ground that he had not had a full and fair hearing. There was no discussion by the court about cheating per se, but again it reaffirmed other decisions that it was unnecessary for professors to go through the formality of a trial. However, they should give the student every chance to prove his innocence and the student should be informed of the nature of the charges against him. Yet, Sherman was denied the opportunity of cross-examining those who had secretly testified against him. In making this denial the court said: "Honorable students do not like to be known as snoopers and informers against their fellows."¹

The other case that arose out of cheating happened in 1953 and was reviewed by the courts in 1956.² Patricia Bluett, a woman medical student, was in school from October 1, 1949, until May, 1953. She was suspended in May, 1953, and was refused permission to continue. She was not informed of the cause of her suspension until she went with her attorney to the University Committee on Policy and Discipline. At

¹Ibid., p. 826.

²People of the State of Illinois v. The Board of Trustees of the University of Illinois, 10 Ill. App. 2nd 207.

this time she was informed that she had been suspended because she turned in an examination paper written by someone else. On July 15, 1954, the committee found her guilty with respect to the charges and changed her status from suspension to expulsion. It is interesting to note that in this most recent case, the court stated that she was not entitled to a hearing even though it was a state university and used State v. Clapp as its main authority. This is indeed a change in thinking from the Dickinson College case of 1886 in which the court ordered the reinstatement of a college student because he had not received a fair hearing.

Lying, another form of dishonesty, was exhibited and brought to court in 1902.¹ In this year a Mr. Goldstein was expelled from the law school of New York University by its faculty. A young woman in his class had gotten, through an intermediary, a letter which was reportedly signed by Goldstein in which he said: "Therefore, thinking it would be uncurteus (sic) to present myself without your assent, I ask if I may do so in the classroom or otherwise submit to any suggestions you make."² She was annoyed and reported it to the Dean. The Dean brought the matter to the faculty meeting and Goldstein was interviewed. He denied having written it and blamed others. The evidence was strongly against him, and he was expelled, not particularly on charges of writing the letter, but for deliberate lying, giving false testimony, and making false charges.

¹Goldstein v. New York University, 76 App. Div. 83, 78 N.Y.S. 740 (1902).

²Ibid., p. 741.

Was he expelled without notice of charges against him and without being given a chance to defend himself? The opinion of the court was that the investigation had been adequate and grounds for expulsion existed.

In 1924 Alice Woods wanted the court to order a writ of mandamus for her reinstatement to the University of Maryland.¹ She had finished the first two years but had been refused admission to her third year. During her two years she had been in continual conflict with the officials, and the capstone of her career was her authorship of an article in a Washington newspaper stating that many officials of the University were making objectionable suggestions to girls and exhibiting the wrong moral attitude toward the students. When confronted, she declined to answer as to her authorship of the damaging aspersions cast on the life at the University; the court denied her a writ. In expressing its philosophy toward disciplining students it said:

The maintenance of discipline, the upkeep of the necessary tone and standards of behavior in a body of students in a college is of course a task committed to its faculty and officers; not to the courts. It is a task which demands special experience, and is often one of much delicacy, especially in dealing with girl students; and the officers must, of necessity, be left untrammelled in handling the problems which arise, as their judgment and discretion may dictate, looking to the ends to be accomplished. Only in extraordinary situations can a court of law ever be called upon to step in between students and the officers in charge of them.²

A case which presents many facets of dishonesty occurred in

¹Woods v. Simpson, 146 Md. 547, 126 A. 882 (1924).

²Ibid., p. 883.

September, 1926.¹ In 1923 Mrs. White entered the Portia Law School, a school of law for women, but was refused readmission for the fall of 1926. On April 26, 1926, the law school had received information that Mrs. White was making improper use of her knowledge obtained in law school. The Dean tried to get the truth from Mrs. White as to whether or not she had engaged in negotiations with a coal company and grocery store over her failure to pay for goods amounting to \$513.00 and her alleged attempt to foist these debts on her estranged husband who was paying \$64.00 a month to her for her support. Having bragged to her fellow students that she used her legal knowledge to accomplish her dev-ious ends, the court decided that the expelled student's continued presence at the law school would be subversive to its discipline and would cast a shadow on its good name. The institution had been within its rights in expelling a student after it had interviewed the student in regard to the matter.

Dismissal Because of Grades

There have been only five decisions concerning the expulsion and suspension of students because of low grades on the college level. Of these five, only two have been rendered in favor of the colleges and universities involved. However, the first three cases, all occurring around the turn of the twentieth century, ordered the reinstatement of the student. An early case arose in an Ohio normal school when

¹ White v. Portia Law School, 274 Mass. 162, 174 N.E. 187. (1931).

a woman student was requested to withdraw because of low scholarship and lack of ability for teaching.¹ The court granted an injunction restraining interference with the student's right to attend school. It reasoned that the school was part of the public school system, and since the right to be educated belonged to the people, it was an abuse of discretion for the Board to deprive a student of this right merely because of its "notion as to the future conduct of the pupil receiving instruction."

Three years later a student was denied readmission to the California State Normal School on the grounds that he was mentally incompetent to become a teacher.² In a successful petition for mandamus to reinstate him the court, in issuing the writ, said that the School was depriving the student of a valuable right which belonged to him.

Another early case arose at the University of Minnesota in 1908.³ The Board of Regents refused to readmit a Mr. Gleason, at the beginning of his senior year, to the Law School on the grounds that he had been dropped for deficiency in his work, and he was charged with certain insubordinate acts toward the faculty. Gleason charged that he did not know of the action, was not given a hearing, and the Board acted out of prejudice toward him. The court affirmed the district court's order to reinstate the student because it said that the government of the University is exclusively vested in the Board of Regents and the

¹Brown v. Board of Education, 6 Ohio N.P. 411, 8 Ohio Dec. and N.P. 378 (1899).

²Miller v. Daily, 136 Cal. 212, 68 Pac. 1029 (1902).

³Gleason v. University of Minnesota, 104 Minn. 359, 116 N.W. 650 (1908).

courts do not have jurisdiction to control the discretion of the Board, but if, as in this case, the University refuses persons entitled to the privileges of the University, the court will issue a writ of mandamus to compel the reinstatement of the student. The court continued by saying that the fact that he was charged with insubordination does not mean that he is guilty.

Another case involved a state university in Ohio in 1931, but this time the student was dropped from school only because she was unable to maintain her scholastic average.¹ Jean West entered Miami Normal School, a part of Miami University, in September, 1930. On April 14, 1931, the faculty passed an order excluding her from school, because she had not been able to meet the regulation concerning a required level of scholastic attainment. The faculty asked her to withdraw with the stipulation that she could ask for readmission the following February. Her father contended that she had not violated any rule of conduct; hence, could not be expelled. While the lower court had ruled this allegation to be true, the state court reversed this decision. The state court felt that it had a definite responsibility to uphold the enforcement of a regulation by the board of trustees of a state supported university which imposed upon the students the maintenance of a specified scholastic standing as a condition of continuing in school and such a regulation was not unreasonable, unlawful, or arbitrarily applied.

An almost identical situation and decision arose in Texas the

¹West v. Board of Trustees of Miami University, 41 Oh. App. 367, 181 N.E. 144 (1931).

following year.¹ A Mr. Foley entered the Medical School of the University of Texas in 1930. He was dropped at the end of the spring semester of 1932 because of low grades, and failure in three subjects. The plaintiff charged that the University of Texas could not drop him and the action was arbitrary. With brevity and clarity the court reiterated the decision of the Ohio court: "A rule whereby medical students are failing in two majorsubjects and where the general average is lower than 70, and students are automatically dropped from the roll and are not readmitted, is not an arbitrary or unreasonable rule."²

As may be noted by the preceding cases, the decisions of the court often revolve around technical questions rather than the facts involved in the case. In the earlier cases a writ of mandamus was frequently issued so that a student could be reinstated.³ The legal interpretation for the writ of mandamus is defined as follows: "Mandamus is a writ directed to a person, officer, corporation, or inferior court commanding the performance of a particular duty which results from the official station of the one to whom it is directed or from operation of law."⁴ It is granted usually for public purposes to compel the performance of a public duty imposed by law. "Discretionary acts of state boards and officers charged with duties pertaining to

¹ Foley v. Benedict, 122 Tex. 193, 55 S.W. 2nd 805 (1932).

² Ibid., p. 808.

³ Commonwealth v. McCauley, 3 Pa. Co. Ct. R. 77 (1886); State v. White, 82 Inc. 278 (1882).

⁴ 55 Corpus Juris Secundum 15.

college and universities will be reviewed or controlled by mandamus only where there is fraud, bad faith, or an abuse of discretion."¹

However, the pioneer case of Burg v. Milwaukee Medical College² states that the writ of mandamus should not be issued for a private school since the relationship between the college and its students is contractual in nature. Obligations which rest wholly upon contract, and which involve either a question of trust or official duty, cannot be enforced by mandamus. Since 1906 most of the courts have reaffirmed this decision.³

In a few instances, the court has ruled that the proper authorities have not been consulted in an attempt to gain reinstatement for the student and hence the court had no jurisdiction.⁴ However, in a Missouri case⁵ the court issued an injunction or judgment directing reinstatement because the Board of Regents had acted outside of its sphere of authority.

¹34 American Jurisprudence 967.

²State v. Milwaukee Medical College, 128 Wis. 7, 106 N.W. 116 (1906).

³Tate v. North Pacific College, 70 Ore. 160, 140 P. 743 (1914); Barker v. Trustees of Bryn Mawr, 278 Pa. 121, 122 At. 220 (1923); Anthony v. Syracuse, 224 App. Div. 487, 231 N.Y.S. 435 (1928); Strank v. Mercy Hospital of Johnstown, 383 Pa. 44, 117 At. 2nd 697 (1955); Booker v. Grand Rapids Medical College, 156 Mich. 95, 120 N.W. 589 (1909).

⁴Dunn's Case, 9 Pa. Co. Ct. 417 (1891); State v. Tison, 175 La. 235, 143 So. 59 (1932).

⁵State v. Osborne, 24 App. 209 (1887).

Summary

In regard to conduct and discipline any college or university may make and enforce reasonable regulations for the conduct of its students. It may suspend or expel students for failure to conform to such regulations.

The governing board of the college ordinarily regulates the behavior of its students through enforcement of rules which it makes under the explicit or implicit powers granted by its corporate charter. The board may delegate its power to control the behavior of the students to the faculty or officers of the institution.

Throughout the years, the legality of certain college regulations governing student conduct has been questioned. The resolution of these questions has been left to the courts.

As evidenced by the decisions handed down, the courts have been liberal in ruling upon the reasonableness and legality of the college regulations brought before them.

The courts have held that when a student enters an institution he binds himself to a contract with the college and agrees to abide by its regulations. The institution of higher learning stands in loco parentis, and the courts are reluctant to hand down a decision that would serve to negate this standing. If, however, the regulation in question is shown to be unreasonable, unlawful, or contrary to public policy, or if the action of the college is shown to have been clearly arbitrary or malicious, the courts will rule against the institution.

The contractual relationship between the student and the

college protects both parties. This binds the institution to give instruction, to permit the student to remain in residence, and at the end of the prescribed course, to give him proper evidence of his work in the form of a diploma or degree. The student is bound to pay the required tuition and fees, to maintain the required scholastic and moral standing and to submit to the general rules and regulations of the college.

While the college may require a student to renounce some of his personal privileges, it cannot demand the surrender of basic rights such as freedom from the impairment of a reputation or the rights of civil liberty.

CHAPTER V

THE ROLE OF THE EDUCATIONAL INSTITUTION IN REGULATING STUDENT BEHAVIOR WITH EMPHASIS ON THE SIX STATE SUPPORTED JUNIOR COLLEGES OF OKLAHOMA

More than two thousand universities and colleges in the United States have come into existence in the past three hundred years. From the first expression of educational aims and philosophies by the men of the Massachusetts Bay Colony in 1632 to legislation now pending, the clarion call has always been freedom for the governing board of each college and university to act in accordance with its goals. Such freedom has made it necessary for institutions of higher education to assume certain responsibilities. One such responsibility is maintaining standards for the general welfare and behavior of the students. This responsibility was originally assumed by the colonial academies and colleges. In these academies and colleges the students' manners and morals were closely supervised. The rules governing student conduct became numerous and detailed. Punishments for even minor infractions were severe.

The colonial overseers at Harvard were the first personnel officers in an American university; later presidents and members of

the faculties shared this responsibility.¹ They acted in loco parentis and were required to patrol the dormitories and report all absences and misdemeanors to the board of trustees who meted out the punishments. During the early federal period of our country, most of the codes of rules were borrowed directly from the colonial colleges and new rules were added so that life for the student became a grim matter. The college presidents emerged as the chief disciplinary officers with the faculty members as their assistants and the boards of trustees were courts of last appeal. Punitive measures were milder than in the colonial period. Public confessions, fines, and special assignments were the common forms of punishment.

In this era bitter hostility between students and faculty was evident. An intolerable situation existed, and the first concerted efforts were made to find positive ways of improving existing conditions. Literary and debate societies were formed which offered constructive outlets. Also, programs of physical exercise were encouraged by the faculties.

The early part of the nineteenth century saw the nation expanding from the Atlantic coast to the Pacific coast and higher education was introduced on a nationwide basis. The increased number of students, the lack of isolation from community life, and the dependence of the institution upon larger enrollments tended to mitigate the rules inherited from previous generations. The trustees still wrote the

¹For a more detailed history of personnel services in higher education, see Eugenie Andruss Leonard, Origins of Personnel Services in American Higher Education, (Minneapolis: University of Minnesota Press, 1965), 114 pp. 114-164.

rules but did not participate as actively in disciplinary actions as formerly. The presidents delegated many of their responsibilities. Faculty members still monitored the dormitories and dining halls. Yet, special personnel to handle disciplinary problems were beginning to be appointed in a number of colleges. The kinds of disciplinary controls began to change and with the change came a marked improvement in faculty-student relationships.

More than six hundred four-year colleges and universities have been founded since the Civil War. The junior colleges that have come into being number eight hundred and fifty. Trustees could no longer take an active part in campus life; presidents could no longer supervise the study halls nor oversee the dormitories at night; and disciplinary problems had to be delegated to other college personnel. Therefore, today, regulative control of student behavior is exercised upon students by both the administration and the student body itself. However, the college staff must bear the real responsibility to the trustees and the public for the students' actions both on and off the campus, no matter how much responsibility has been delegated to the students.

In an effort to gain further information about the types of controls placed on student behavior in the state supported junior colleges of Oklahoma today, a visit was made and a personal interview held with each chief personnel officer in the six state junior colleges under study. The interview was so designed to reveal information relevant to their policies and philosophies of student behavior. The

institutions to which visits were made are fully accredited, and in every instance have an enrollment of five hundred students or more. From this material certain local trends can be ascertained. The discussion of prevailing regulations pertains to conduct control methods within these six state supported junior colleges.

A pattern of state junior college ideals and philosophies begins to emerge in studies such as this, although the interpretation of acceptable student behavior varies greatly from institution to institution. A large number of behaviorial patterns have been transmitted from generation to generation by the faculty and students. There is no one method of interpreting the relationship of such factors as driving automobiles or drinking to good conduct. Some of the larger institutions in other states might deem these practices immoral; some inadvisable; and others, totally acceptable. The standards of behavior expected of students usually bear some relationship to the institution's purpose and the prevailing standards of the student body.

The Purpose of the Institution in
Relation to the Standards of
Conduct Required of its Students

In the junior colleges where the rationale for standards of student behavior is set forth in their catalogues and handbooks, there is a marked characteristic of common purpose that is shared by all state controlled two-year colleges. A composite philosophy underlying standards of behavior may be seen in excerpts from the following published statements from state controlled junior colleges:

Enrollment in the college carries with it obligations in regard to conduct, not only inside but also outside the classroom, and students are expected to conduct themselves in such a manner as to be a credit both to themselves and to the college. They are amenable to the laws governing the community as well as to the rules and order of the college and college officials and they are expected to observe the standards of conduct approved by the college.¹

The reasonable supposition is that persons applying for admission to a junior college are ladies and gentlemen, and every consideration shall be shown as such, until by their own acts they shall forfeit the confidence reposed in them. Rules of government and regulations of these will be such as should secure conformity thereto and active cooperation on the part of the student body in aiding and carrying out such requirements as may be deemed necessary.²

The conduct of an individual student is an important indication of character and future usefulness in life. Each student upon matriculation at the college, assumes an obligation to observe all rules and regulations made by properly constituted authorities to preserve faithfully all property provided by the state for his education, and to discharge his responsibilities as a student with diligence, fidelity, and honor.³

Still other state institutions have adopted the philosophy that a high standard of student behavior may be attained by a minimum number of regulations. Such a philosophy can be seen in the following statements: "Connors State College has as its aims to inculcate by teaching and example rather than by stringent rules and regulations,

¹Murray State College, Tishomingo, Oklahoma, Student Handbook and Regulations, 1966, p. 3.

²Cameron State Agricultural College, Lawton, Oklahoma, College Catalog, 1966-67, p. 30.

³Eastern Oklahoma A. & M. College, Wilburton, Oklahoma, Student Handbook, 1966-1967, p. 27.

the principles of courtesy, honor, truthfulness, love for the aesthetic and reverence for the sacred things."¹

"Northeastern State Junior College believes in the minimum of regulations. It is the viewpoint of this institution that control should come from within each individual guided by a sensitiveness to social responsibility. The confidence reposed in the students is considered one of the educative forces of the college; it serves to develop character, initiative, and good citizenship."²

Whatever controls are placed upon students by a given institution, the administrators responsible for the effective functioning of these controls would do well to remember Francis Bacon's dictum: "That law may be set down as good which is certain in meaning, just in precept, convenient in execution, agreeable to the form of government, and productive of virtue in those who live under it."³

Procedures Used to Enforce College Regulations

The rules and regulations of the colleges included in this chapter are the product of an institution's policy to enact measures that are needed to insure the function of the college. Such a function is the education of men and women through the improvement of their character and intellect. Students on a college campus are citizens of a special community. This citizenship in a college community en-

¹Interview with Louise Carter, Dean of Students, Connors State College, Warner, Oklahoma, February 16, 1967.

²Interview with Charles Angle, Dean of Students, Northeastern Oklahoma A. & M. College, Miami, Oklahoma, February 17, 1967.

³H.L. Mencken (ed.) Dictionary of Quotations (New York: Alfred A. Knopf, 1962), p. 657.

tails responsibility for the students to conduct themselves in accordance with accepted standards of personal and group conduct. When a student violates the standards of his college group he is subject to certain penalties.

Ultimately the responsibility for student behavior rests with the governing board of the college, but this responsibility is usually delegated to the president. In many cases the dean of students or the dean of men and the dean of women are the principal administrative officers of the college with respect to student affairs including discipline. While the lines of demarcation of authority are not always distinct and clear between students and faculty, the establishment of policies and regulations is, in major part, determined by the faculty. Generally speaking, the deans of the college act as executive agents of the college in all cases of discipline arising under college regulations. Appeal of disciplinary action is always reserved to the president, particularly in cases of suspension and expulsion.

Faculty administrative committees on student conduct are established on all six campuses to investigate charges of misconduct, to determine the guilt or innocence of those involved, and to provide, or recommend to proper authorities such corrective or disciplinary measures as may seem appropriate. The disciplinary committee at Northern consists of five faculty members with no student or administrative officers represented. At Connors the committee consists of three faculty members appointed by the President of the college, the Student Senate President, the Academic Dean, and the Dean of Students.

At Cameron the Dean of Men automatically chairs the committee, two faculty members are appointed by the President of the college, and two students serve through appointment by the Student Senate President. The student personnel committee which consists of three faculty members, the Dean of Students, and the Dean of Men has a dual role as it also serves as the disciplinary committee at Eastern A. & M.

Murray's student discipline committee consists of the Dean of Students, three faculty representatives appointed by the Academic Dean, the Student Senate President, and one student appointed by the Student Senate President. The only school not having a formal discipline committee is Northeastern. The Dean of Students in that school serves as the Discipline Committee. However, plans are for faculty and student representatives to serve on a formal committee in 1968.

The gamut of punishments for violations of campus standards is a wide one, each varying with individual circumstances. However, most penalties for violation of standards of conduct may be in the form of expulsion, suspension, probation, warnings, withdrawal of special privileges, imposition of special duties, and imposition of monetary fines.

When a college states that a student has the right to appeal a case it may be inferred that a student is given a hearing for cases of disciplinary infractions in that college.

Only in cases of expulsion is this required in the Oklahoma system of higher education. The New Oklahoma Administrative Procedures Act¹ makes it mandatory in cases of expulsion that the student

¹Oklahoma Statutes, Title 75, Sec. 301-325 (1963 Supp.).

be given opportunity to be heard by the disciplinary authorities where he can present evidence, testimonial or documentary support on his behalf.

In contrast to the handbooks and catalogues of these schools published a few years ago, no school had published a statement in their official regulations that the college reserves the right to dismiss a student for whatever reason it deems necessary, and nor is it required to give a reason to the student for his dismissal.

The catalogues and handbooks as well as personal interviews with college administrators of all colleges under this study divulge certain areas of student life which seem to lend themselves to the formulation of regulations. Each of the colleges has regulations pertaining to use of alcoholic beverages; four of the schools have regulations which deal with the proper registration and use of cars while a college student. One college permits hazing in a limited fashion, one catalog specifically forbids it; four schools have strong unwritten rules against this practice; all institutions interviewed regulated the practice of smoking and all regulate or prohibit the use of firearms. Other miscellaneous regulations have been framed, some of which will be discussed in more detail later in this chapter.

Housing Regulations

Unapproved Housing

The Higher Regents of Oklahoma, using the case of Pyatt v. Board of Regents of Oklahoma as the basis for their decision, requires

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that all students be domiciled in college owned or operated housing, this regulation is subject only to the limitations of available space.

The junior colleges under this study observe this regulation rather closely. Each personnel administrator interviewed stated that during each semester the dormitories were maintained as near to maximum capacity as possible. Exceptions, of course, were noted in each school. Commuting and married students, those students whose employment required them to reside off campus, and physically handicapped people were notable examples of the exceptions.

All students exempt from the domiciliary regulation, no matter what may have been the reason, were required to have special permission from the Dean of Student's Office. Five of the six institutions reported that a maximum capacity for all college residences was reached during the fall semester of the period under study. As a result, many students from the five schools were requested to obtain living quarters off-campus. Were the requirements of the Regents' regulations followed to the letter, when space became available the people who were requested to live off-campus would be moved into the dormitories or other college operated housing. Not one case, however, was cited where this was done.

Even though the college student resides off-campus, he remains under all college disciplinary regulations. The case of Castleberry v. Tyler Commercial College illustrates how the court construed the student-college contract to mean that the institution reserved the right to

regulate board, room, and student conduct at all times even though the student was domiciled in private homes. It also stated in this case that the college could not yield its responsibility to some other agency.

Only two schools reported having problems arise with off-campus housing. Cameron and Northeastern, both located in urban areas, reported disciplinary cases that were precipitated by students living off campus. In all instances, the people involved were placed on disciplinary probation for the remainder of the academic year and no other difficulty was encountered.

Murray, Eastern, and Connors reported cases of students residing off-campus without having permission to do so. In seven of the eight instances divulged, the people involved were required to take up residence in the dormitory. The other student chose to terminate his standing as a student.

Closing Hours of Residence Halls

Historically and currently the double standard has made it necessary to regulate campus life for women more than men. Because of society's insistence on getting the women into their residences early in the evening and regulating the hours when the halls should be open to men, all colleges have made provision for certain hours when women students must be in the residence halls. Only one college, Cameron, specifies a closing hour for men's residence halls. The student handbook of this school states that all men are to report not later than 10:00 P.M. Sunday through Thursday nights, with Friday nights

requiring midnight reporting time. No mention is made of a Saturday night curfew hour. Although this rule has been in the regulations for years, it has, only on rare occasions been enforced.

All women students who reside in the residence halls of the state junior colleges have a specific curfew hour established with no college reporting a week-day curfew hour later than 10:30 P.M. Week-end reporting times vary from 12:00 midnight to 1:00 A.M. Only one college reports that women's hours are contingent upon class or scholastic standing. Northeastern A. & M. requires all freshmen female students to report not later than 7:30 P.M. during the week, while sophomore students are permitted a 10:00 P.M. closing hour.

Exceptions to all the above hours are found during officially sanctioned college activities held during the week-days. Each personnel administrator interviewed classified his school as a "suitcase" college, explaining the great majority of all students return home on week-ends. If college activities are to be well attended, they must be scheduled during the week-day. This required many adjustments in the curfew hour regulation. No school rule, however, permitted a week-day activity adjusted reporting time later than 11:00 P.M.

Although each Dean of Students was quick to admit that not all cases of the curfew hour regulation being broken were reported to him, the record did bear ninety-six separate infractions among the six schools. In only three cases were habitual offenders reported. Two students were placed on probation, one was permitted to complete the semester and requested to leave school. This she did.

For infractions of the curfew hour regulations, each school was free in the use of the "campus" penalty that restricted a young lady to her room for a certain period of time with no visitation privileges. It was generally agreed that week-end restrictions served to discourage further negligence toward obeying the curfew regulation.

Illegal Mass Activity

Unlawful Assembly and Riots

With the outbreak of pantie-raids in the early fifties new regulations have arisen pertaining to this type of mass behavior. A very comprehensive regulation is found in the Murray State College handbook of regulations for students. This rule states:

The Regents of the Agricultural and Mechanical colleges of Oklahoma, recognizing the necessity of complete observance of all state statutes by the students and staff of the college, and desiring to reaffirm that necessity, resolve that if any group of students gathers in such manner as to disturb the public peace, excite public alarm, or do violence to any person or property, or gathers in any manner so as to bring disgrace or disrepute to the college; or if any group of students refuses to disperse or to assist in dispersing such a gathering upon request from duly elected or appointed officials of the state, county, or town, or upon request from the college administration, such students shall be subject to disciplinary action including suspension or dismissal from the college.

All students, including occupants of any car found in the vicinity of an unlawful assembly shall also be liable for disciplinary action which may involve probation, suspension, or dismissal.¹

Although all six institutions prohibited riots and mob action on the part of the students, only two of them, Cameron and Murray,

¹ Student Handbook, 1966-1967, Murray State College, Tishomingo, Oklahoma, p. 19.

refer to raids on women's residence halls:

Unlike many other colleges, Cameron has not had a serious group disturbance for many years. This is because Cameron students regard riotous demonstrations, raids on women's halls, water fights, and the like childish. Any student found guilty of inciting to action or willfully participating in action resulting in destruction of property, or an unauthorized group activity, that may or may not be destructive will be subject to dismissal from the college.¹

Other colleges cover this area by stating that there shall be no vandalism or public disturbance on the part of the students. This area of discipline is strongly enforced in all the state junior colleges which may suggest great concern on the part of state colleges toward public reaction to such behavior.

Only one college, Northern, stated that it would permit student protest marches and meetings. All other schools, when asked if the administration would permit such, answered with an emphatic - "NO!"

Oklahoma Statutes, Title 21, Sections 1311 to 1367 (1951) cover the events of unlawful assembly and riots. This legislation offers a strong foundation on which the colleges have built their rules governing illegal mass activity.

Of the six schools under study, four schools made known instances of misconduct that could have conceivably been classified as "unlawful assembly" and prosecuted under the state courts. All cases occurred during or immediately following an authorized sporting event.

Cameron, Eastern, Murray, and Northern reported cases which

¹Student Handbook, 1966-1967, Cameron State College, Lawton, Oklahoma, p. 21.

involved the near riotous conduct of students. In three of the instances, the people involved were called before their respective Deans of Students and placed on disciplinary probation. The fourth instance, a somewhat more severe case, necessitated action of the school's discipline committee and subsequently the students' dismissal from school.

Control of Political Meetings

Four of the six state junior colleges are concerned enough with campus political gatherings to feel it necessary to publish regulations concerning the control of such meetings. Northeastern and Cameron do not have regulations governing this area.

In all the schools there is an appointed faculty member who supervises the holding of political meetings on campus and cooperates with heads of various political parties in permitting the use of college facilities for meetings and rallies. In four of these schools, Cameron, Northern, Murray and Eastern, this responsibility is delegated to the Dean of Students.

Murray State College states clearly its responsibility when outside speakers are invited to address student groups:

The college cannot accept responsibility for views expressed or entertained by either the speakers or the groups, and cannot be held to approve or disapprove such views, whatever their nature, but is to be concerned exclusively with the discharge of its educational obligation to facilitate free discussion of all points of view, to the extent guaranteed by the constitutions of the State of Oklahoma and the United States.¹

Murray State College and Eastern A. & M. maintain a list of approved political organizations in the Student Senate Office.

¹Student Handbook, Murray State College, Tishomingo, Oklahoma, p. 13.

Each year in August, the Student Senate and Personnel Services Committee on each respective campus meet and approve the list for the coming school year. Before a political organization can use the facilities on the campuses of these schools their names must appear on the list.

Disorderly Conduct

The term "disorderly conduct" covers a multitude of offenses. A general statement is found in each of the catalogues concerning conduct that is unbecoming a student attending the respective institutions. Typical of the statements is the one from Connors State College which says:

Connors State has no long list of rules pertaining to disorderly conduct. It is up to you. It is assumed that when you reach college age, you know what is right and wrong, and that you will choose to do what is socially acceptable.¹

Although the handbook lists no areas in which the students fail to do what is "socially acceptable", the following general areas were agreed upon by all personnel administrators as representative of the cases of misconduct in which they had recorded offenses.

Vandalism - Destruction of Public Property

Thousands of dollars are spent each year in the junior colleges system to repair or replace state property destroyed or damaged due to student vandalism. For this reason the consequences of this act are great.

¹ Connors State Agricultural College, Warner, Oklahoma, Student Handbook 1966, p. 11.

Oklahoma Statute, Title 23, Section 10, (1961) prescribes the civil law dealing with people who maliciously or willfully destroy public property. The institution's regulations, even though unwritten, are based upon this statute.

Cameron, Northeastern, and Connors each reported five cases of vandalism in which the violators were apprehended. Murray State College reported one. In all cases the institutions involved recovered damages in the amount to replace or repair the damaged property. Two of the students were suspended, the others placed on strictest probation.

The one case reported by Murray College was somewhat unique. The vandalism took the form of the student "stabbing" the doors on one wing of a boys' dormitory, destroying two doors and severely damaging fourteen others. When the young man responsible for the action was instructed by the Dean of Students that he had three choices, pay for the damages, repair the doors, or be suspended from school, he immediately contacted his father. This gentleman appeared the next morning with all his carpentry tools and together the son and the father replaced two doors and refinished fourteen others. This punishment complemented by probationary status for the young man resulted in his being a model student for the remaining three semesters.

Loitering

Only six cases of loitering were reported by the junior colleges under study. Three of the individuals apprehended were students and were punished under college regulations. The other cases involved people other than students and were referred to civil authorities.

One of the college cases, so the Dean of Students of this school reported, was an out-right case of peeping-tomism. The student was given a hearing before the discipline committee and promptly suspended from school. The other two cases were not as clearly defined. These students were placed on probation and instructed never to frequent the areas encompassing the girls living quarters.

Oklahoma Statute, Title 21, Section 1171, (1961), outlines the conditions under which a person may be convicted for loitering and peeping-tomism. At no time have the colleges resorted to civil action in punishing a student for loitering.

Abusive Language-Disrespect

Oklahoma Statutes, Title 21, Sections 1362-1363, state the civil conditions upon which the state colleges base their regulations, concerning the disturbing of the peace.

All of the colleges under the study reported having student misconduct of abusive language. Twenty-six separate incidents were reported in the six schools and twenty-three of the infractions occurred in dormitory housing. Two violations took place in the Student Union building and the other at a sporting event.

All of the cases were handled by the Deans of Students in a summary manner with no case having been referred to the discipline committee.

Not one case of disrespect toward the faculty or administration was reported by any official interviewed.

Although there are no specific written regulations in the handbooks of the respective colleges covering the areas listed, the "general conduct" clause is interpreted in each case to include these areas of misconduct.

Two states, Tennessee and South Carolina, not only require the colleges to include these sections in their disciplinary regulations, but also have statutes on their law books governing college student offenses in these areas.

Hazing

Hazing on college campuses has concerned not only the legislature and the courts, but also college officials. At the present time, there are no institutions who have published regulations forbidding or regulating hazing. Each personnel administrator felt that the common-law banning this practice was so understood, to include it within the regulation would be unnecessary. Only one institution permits any form of hazing. Cameron State College authorizes two organizations, the Keathley Rifles (ROTC) and the Rodeo Club, to haze, if and only if the activities are approved by the Dean of Student's Office prior to the initiation proceedings.

- - The ban on peculiar dress being worn to class and campus functions is exercised by all schools with the only exceptions being functions approved by the Student Senate and the Dean of Student's Office prior to the activity.

All the colleges agree that any student action which may result in injury or undue degradation of the individual is not to be permitted.

Although this area of student misconduct has created more legislation than any other area studied, not one case of hazing was reported by the colleges involved in this study. The personnel administrators attributed this fact to knowledge that each student was cognizant of the severe consequences awaiting any person involved in such an offense.

Theft

So strong is the common law governing this offense that not one Student Handbook of Regulations carries a paragraph concerning it.

The Dean of Students at Eastern Oklahoma A. & M. stated, "Under no circumstances shall we tolerate thievery on our campus. Each student knows that it is automatic suspension should he be found guilty of such offense."¹ To prove that her statement was no quotation of empty words, records were produced showing expulsion of two students for stealing in the dormitory.

Collectively, there were twenty-four cases cited. Eleven cases resulted in expulsion; five of the students were later allowed to re-enter. Thirteen students were placed on probation for remaining semesters in school.

All personnel officials reported more cases involving theft, but had no basis on which to make an accusation.

Oklahoma Statutes, Title 21, Sections 1706, 1707, 1720, 1723 and 1724 (1961) set forth the definitions and punishment for thievery in this state.

¹Interview with June Cope, Dean of Students, Eastern Oklahoma A. & M. College, Wilburton, Oklahoma, February 16, 1967.

Gambling

Oklahoma Statutes, Title 21, Sections 941-949 cover the offense of gambling.

Although there were sixteen separate offenses reported by the junior college personnel administrators, not one case reached the discipline committees.

Thirteen of the students received a severe reprimand. Three were given non-recorded probation periods. All the cases reported involved dormitory "poker" sessions.

Of the six schools in the study, five have regulations that prohibit gambling on the college campus or at college functions. Eastern A. & M. reported that it was such a strong common-law regulation that to include it in the official handbook would be unnecessary. The Oklahoma Statutes, Title 21, Section 1051, (1965) prohibits raffles, lotteries, and any form of a game of chance. Offenders are warned that they are subject to heavy fines and penalties.

In actual practice, however, all schools interviewed admitted that the state law was never strictly enforced. All reported fund raising projects throughout the year that included raffles, lotteries and gift enterprises. Each school also made it clear that with each change in the civil law enforcement personnel, an opinion was requested from the new police staff concerning their views on such practices.

Misuse of Privileges - Fraud

Civil law enforcement personnel and college officials work co-operatively to enforce the state statutes and college regulations

concerning misuse of privileges and fraud.

Of the twenty-nine cases reported by the six state colleges, nineteen involved misrepresenting by false documentation a college identification card to purchase intoxicating beverages.

Oklahoma Statutes, Title 37, Section 538 (F), (1961) is strictly enforced by the civil law enforcement agencies. Of the nineteen cases, eleven were processed through the civil courts, eight were remanded to the college disciplinary processes for punishment. All eight were placed on recorded probation with four eventually leaving school because of violation of probation.

Bogus checks are a nemesis to the citizens of the cities in which the colleges are located. Sixty-four times in the period studied were students in the six colleges called upon to explain the "why" of a bogus check. Fifty-six of these offenses were cleared by having the student cover the amount involved with cash. Eight of the cases were remanded to the civil courts for punishment under State Statutes, Title 21, Section 1541, (1961).

Each Dean of Students was quick to emphasize the fact that the burden for such an offense lay with the individual accepting the check and the individual uttering the instrument, not with the respective college which the accused attended. The personnel offices are not collection agencies, although each dean did state that his office tried to cooperate with townspeople and civil officers to hold this offense to a minimum.

Assorted Offenses

Fraternity Membership

No junior college in Oklahoma has a chartered social fraternity functioning on its campus. Furthermore, each college forbids its students to form such an organization. Oklahoma law does not forbid higher education institutions to authorize chartering a social fraternity.

Cameron, Northeastern, and Murray State Colleges each reported attempts to organize social fraternities on their respective campuses. College officials refused to act on these petitions quoting The People of the State of Illinois v. Wheaton College, 40 Ill. 186 (1866), State v. White, 82 Ind. 278 (1892), and State v. Osborne, 24 Mo. App. 309 (1887) as their authority.

It is the general consensus of the junior college personnel people that the institutions are much better institutions with the social fraternities proscribed from the campus. Each administrator pledged to help maintain the present status.

Use of Firearms

Many colleges find that men have a recreational interest in firearms. However, experience has proved that the privilege of keeping and using guns must be carefully controlled.

Cameron, Connors, and Northeastern have regulations prohibiting the use and storage of firearms by dormitory residents. Connors and Northeastern do permit the keeping of firearms by married students who live with their wives. Eastern, Northern, and Murray permit firearms

to be possessed on campus by residents of the dormitories only if they are registered and kept by the dormitory hostess. There is no regulation on any particular season. Northern requires that prior to storage, guns must be broken down. No school permits the student to store firearms in private automobiles.

Only three cases were reported in which students were alleged to have abused the privilege of keeping firearms on the campus. Each student involved was called before the Dean of Students and given a warning.

Two schools that prohibited firearms reported a case each in which firearms were brought into the dormitory. A strong warning and a non-recorded probation period were assessed each student.

Dismissal Because of Infractions of
Specific Regulations

Misconduct of Student While Under
Parental Supervision

Connors State College reported a case of misconduct by a student who resided with his parents and commuted from a town thirty miles from the school. The student had reported home from college and in the evening attended a beer party where the misconduct was alleged to have taken place.

The Student Discipline Committee was unanimous in its decision to refrain from entering the case. The committee's decision was well rendered. A case similar to this concerned a college that tested the regulation that even though the student was residing with the parents,

the college retained in loco parentis status that governed his conduct at all times. The rule in question assumed to exercise control over the student and govern his conduct while under the parental eye.¹ Such a rule was without authority.

Use of Alcoholic Beverages

Regulations pertaining to the use of alcoholic beverages are specifically stated in all college handbooks. Each school states that under no circumstances is alcohol to be consumed or possessed on college property, or used at any campus function or any activity sanctioned by the college which is held off campus.

The no alcohol rule also applied to the four colleges which maintained housing units for married students. These schools, Northeastern, Connors, Eastern, and Murray, however, did not have a statement in the student handbook pointed directly toward forbidding the use of alcohol in married student housing units. Although no inspection schedule of these units existed or has ever been employed in any of the aforementioned schools, it was generally agreed that positive action against the occupants would be taken if such conditions were found to exist.

The state statute forbidding the possession, consumption, or purchase of alcoholic beverages by any person under the age of twenty-one years² would automatically place the majority of junior college students under the civil law regulating alcoholic beverages. Each

¹State v. Osborne, 24 Mo. App. 309 (1887).

²Oklahoma Statutes, Title 21, Secs. 1215, 1216, (1965) Supp.

personnel administrator stated that it was the policy of his respective school to punish each infraction of the no alcohol rule by college regulations only if the infraction was determined to be on college property. It was agreed by all schools, if the infraction occurred on property other than college owned or at activities other than college sanctioned, the students' punishment was left to the discretion of the civil authorities and at no time would the school interfere in the student's behalf.

Punishment for possession or consumption of alcoholic beverages on college premises is most severe.

The regulation in the handbooks of all schools contains the words "suspension" and "expulsion" for infraction of this rule.

It was agreed by all personnel administrators interviewed that the possession and use of alcoholic beverages on the campus was their most persistent problem.

Forty-eight instances of misconduct involving the use of alcoholic beverages were reported by the schools under the study.

Twenty-six of the students involved were given non-recorded probationary periods and each student's parents were notified of the offense. Thirteen cases resulted in recorded probation. Each probationary period was for the academic year in which the offense occurred. Four students were placed on probation and given permission to complete the semester with an understanding that permission for enrollment in the following semester would be denied. Five students, all of which were alleged to be intoxicated and accused of destroying public

property, appeared before the colleges' respective discipline committees and were suspended from school.

Use of Tobacco

So widespread is the use of tobacco that the word is only mentioned in two of the six student handbooks. Murray and Connors are the only schools who have placed statements regarding the use of tobacco in their official regulations. These statements do not attempt to regulate the use on moral grounds, but rather restrict smoking to certain areas and buildings to prevent the possibility of fire.

All schools interviewed stated that an unwritten rule prevailed prohibiting the use of tobacco in the classroom and the library. One school, Northern, stated that enforcement of the no classroom smoking rule was never attempted and that students could use tobacco in the classroom if they so wished.

Although no mention whatsoever was found in any of the student handbooks governing the use of chewing-tobacco, three of the schools, Cameron, Murray, and Eastern, had signs in their respective student unions prohibiting the use of such in that one building. Infraction of this ban on tobacco chewing had led to revoking the student center privileges of several students in each school.

The Oklahoma statutes set forth the regulations governing the furnishing of cigarettes to minors. "Any person who shall furnish to any minor by gift, sale, or otherwise, any cigarettes shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than twenty-five dollars nor more than two

hundred dollars and be confined in the county jail not less than ten days nor more than ninety days for each offense.¹

As over ninety per-cent of the junior college enrollment will be students whose ages will fall under twenty-one years, this law has a direct bearing upon the official whose job it is to maintain the student unions. Often this is the student personnel administrator.

When asked if they were aware a law governing the sale of cigarettes to minors was on the state statute books, each personnel dean replied that he was cognizant of it, but also knew the law was never enforced.

Each student union on the campuses of the state junior colleges continues to have cigarette vending machines retailing to students who by law are considered minors.

Not one case of misconduct involving the purchase or use of tobacco was reported by the respective colleges.

Academic Dishonesty

The comparison and evaluation of a student's work by which academic credit is determined predicates the fact that all work submitted by a student for grading is the product of his own efforts. Only one institution of the six schools interviewed has felt it necessary to place in its printed material some statement about dishonesty in the classroom. This institution, Murray College, lists specific procedures to be followed in cases where academic dishonesty arise.

¹Oklahoma Statutes, Title 21, Section 1241, (1961).

Dishonesty in the academic area is usually considered to be any form of behavior which results in submitting the work of another person for one's own work. Northern and Eastern leave the matter of dishonesty up to the instructor and the student. Connors, Northeastern, Cameron and Murray state that the instructor may have complete control in the matter but under some circumstances the matter may go to the Committee on Discipline. At no school is the infraction of the academic dishonesty rule left entirely up to a discipline committee.

All schools were in agreement that dishonesty would result in an "F" on a weekly or chapter test. If dishonesty occurs on the final examination, Northeastern, Connors, Cameron, Eastern and Murray recommend failure in the course. Northern leaves the question entirely up to the instructor.

Only one case could be recalled by any of the personnel administrators whereby a student was expelled from the college for academic dishonesty. The case involved a student from Cameron State College who was employed by the institution for janitorial duties. Having access to keys to the instructors' offices, he proceeded to establish a "test furnishing center". His actions were soon discovered and he was summarily expelled.

No college reported any form of the honor system in operation on its campus. All personnel administrators expressed doubts as to the feasibility of such a program in any Oklahoma junior college.

Automobile Cases

While mobility has become a part of American life, the unregulated presence of student automobiles in large numbers on college

campuses involves serious disadvantages. Accidents endanger human life, parking becomes chaotic, academic troubles are intensified, and week-end mass exoduses of the student body tend to weaken the unity of a college.

With these factors in mind, five of the six junior colleges have some regulations in their catalogue or handbook pertaining to the use and possession of automobiles. Only Northern Junior College saw no necessity of including a statement in their college handbook regulating the use of automobiles. All other college regulations pertain to regulating traffic with no college denying the student the privilege of having a car on the basis of academic, or class standing.

All schools, again with the exception of Northern, required registration decals for both semesters. The cost of these decals varied from being free at Eastern to ten dollars a year at Cameron. Murray, Connors, and Northeastern each charged the student two dollars for a decal that entitled the owner to operate a vehicle on the campus for two semesters.

Disciplinary controls regulating the possession and use of a vehicle on the junior college campuses vary in direct proportion to the magnitude of the problem on each respective campus. Northern Junior College has no traffic problems whatsoever, and as a result has had not one case of reported traffic violations this year. Cameron, with many automobiles and no space, reports that it is a major problem on its campus. Northern has no fines for violations; Cameron fines each offender ten dollars. Upon accumulating \$30.00 in parking or traffic fines, the student is automatically suspended from

school.

A traffic court consisting of five students hears appeals cases only at Cameron.

All other colleges have no such organization nor appeal route.

Cameron College reported forty-six cases involving automobile offenses. Only six of the cases were of such nature that required the student court to prohibit the operation of the students' automobiles on the campus. Heavy fines also accompanied the ban.

Northeastern was next in the number of traffic offenses. Thirty-four cases were reported with five students being relieved of the privilege of operating a vehicle on the campus.

Connors, Eastern and Murray reported twenty, twenty-three, and sixteen cases respectively. Northern reported none.

The personnel administrators see the traffic problem as one that must be studied in depth by all institutions in order to cope with the predicted increases in student enrollment.

Summary

From the first expression of educational aims by the men of the Massachusetts Bay Colony in 1632 to the present day, the call has always been freedom for the governing boards of each college and university to act in accordance with its goals. Such freedom has made it necessary for institutions to assume certain responsibilities. One such responsibility is maintaining standards for the general welfare and behavior of the students.

Although the final authority for disciplinary action still rests with the boards of control, the responsibility has been delegated to college presidents, who have in turn delegated many of their responsibilities to faculty members and professional personnel administrators.

The information in this chapter presented types of control placed on eleven different areas of student behavior in the state supported junior colleges of Oklahoma.

Through the study there has been found to exist a marked characteristic of common purpose underlying the college disciplinary regulations. The methods of discipline to attain this purpose, however, vary from institution to institution.

All colleges under this study use probationary privileges to the limit. Heavy monetary fines are levied in two colleges to control traffic violations, whereas four schools are hesitant to assess other than token fines. Withdrawal of special privileges is used to control behavior in college dormitories in all schools interviewed.

Appeals routes for students are open in four colleges; two have no formal appeal procedures. The New Administrative Procedures Act of this state is followed in the four schools permitting appeals. The two colleges having no formal appeal route do not adhere to its stipulations.

Each of the colleges has regulations pertaining to use of alcoholic beverages, four of the schools have regulations which require proper registration and use of cars while a college student. Four colleges have strong unwritten rules against the practice of hazing,

one college permits this in a limited fashion and one catalog specifically forbids it. All institutions regulated to some degree the practice of smoking. All either prohibit or exercise strong control over the storage and use of firearms.

CHAPTER VI

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Summary

Discipline, whether it be exercised by the student himself or structured by some rule making body, is an accepted part of the college program today. The college official to whom the responsibility of discipline is delegated has an obligation not only to the individuals who make up the academic community, but also the citizen of the city, state, and nation.

An awareness of all the systems having an influence on the social control of the college student is essential to the personnel administrator.

State legislatures have undertaken the task of fostering institutions of higher learning and exercising a measure of control over them. The authority for the operation of an institution of higher education is derived from a corporate charter granted by the State Constitution or the State Legislature.

Special statutes have been enacted by the state legislature that specifically pertain to the morals and conduct of the college student. Although these statutes are presently on the law books, most

of them were legislated prior to the 1930's. The writer found fifty-six statutes specifically written to govern the conduct of the college student.

The student in an institution of higher learning is not a consistent legal entity with defined rights and obligations. The courts have made decisions that state a college or university may make and enforce reasonable regulations for the conduct of its students and that it may suspend or expel students for failure to conform to such regulations. They have held also that when a student enters such an institution, he agrees to abide by its regulations. No matter what the student's chronological age, an institution of higher education stands in loco parentis, and the courts will not decide against the institution in matters of conduct and discipline. However, if the regulation in question is shown to be unreasonable, unlawful, or contrary to public policy, or if the action of the college is shown to have been clearly arbitrary or malicious, the courts will set aside the regulation. Courts have upheld colleges' actions toward the students and have been slow to annul or revise the actions of a college.

The courts have ruled that the relationship between a student and a college is a contractual one, and therefore, the rules and regulations of the college concerning government and discipline form a part of a contract. This contractual relationship binds the institution to give instruction, to permit the student to remain in residence, and at the end of the prescribed course to give him proper evidence of his work in the form of a diploma or a degree. The student,

on the other hand, is bound to pay the required tuition and fees, to maintain the required scholastic and moral standing, and to submit to the action of the college when it has been determined that the student is no longer desirable and should be dismissed.

While the college may require a student to renounce some personal privilege, it cannot demand the surrender of basic rights such as freedom from the impairment of a reputation or the rights of civil liberty.

From the founding of the Massachusetts Bay Colony in 1632 to the present, the governing boards of each college in America have stressed the need for freedom to act in accordance with its goals. With this freedom came the responsibility to maintain standards for the general welfare and behavior of students.

Although the final authority to maintain the standards of welfare and behavior is vested in the boards of control, the responsibility for its implementation has been delegated to the presidents who have in turn passed on many of the responsibilities to faculty members and professional personnel administrators. The Deans of Student Personnel Services were the delegated officials in the schools of this study.

The institutions within this study were found to have a marked characteristic of common purpose underlying the colleges' disciplinary procedure. Exercising the privileges and responsibilities of democratic citizenship, the student is requested to conform and actively cooperate in aiding and carrying out such rules of government and regulations as may be deemed necessary to help achieve the goals of the

college.

There are students who fail to realize the responsibilities they have toward the institution and the others around them. Therein lies the negative side of discipline. In this investigation, seventy-six individual cases of student misbehavior were categorized into eleven general problem areas. A review of these areas in terms of their legal implication points up two facts: (1) the junior college learning experience is gravid with opportunities to learn responsible citizenship and government in a direct learning situation, and (2) the student personnel administrator, as the chief disciplinary officer, is in charge of a service that is vital to, and an integral part of the proper functioning of a junior college.

Problem and Purpose

The purpose of this study was to colligate the state statutes and court decisions which are relevant to the conduct and welfare of the student in the six state supported junior colleges in Oklahoma, and to review and evaluate in terms of their legal implications eleven general categories of disciplinary practices on which the respective colleges base their student conduct regulations.

The study was limited to the six state supported junior colleges operating in Oklahoma during the 1965-1966 academic year.

This investigation was undertaken to provide information to assist in the improvement of the total program of the student personnel services offered in the colleges included in this study.

Other uses of the findings of this investigation might include:

- (1) The use of the study as a synthesis of disciplinary practices in the public junior colleges of Oklahoma and the thinking of the student personnel workers toward these practices.
- (2) Its use as a synthesis of state statutes, court decisions, and institutional regulations having a direct bearing upon the social control of the student in the public junior college of Oklahoma.
- (3) To utilize this as a study of legal sanctions and principles growing out of statutes, court decisions, and regulatory measures. To serve as a check list to alert the personnel administrator to situations which often lead to expensive and disastrous court action.
- (4) To act as a guide in understanding the rights and privileges he enjoys and may legally enforce.
- (5) It could serve as a basis for developing more thorough training programs for professional student personnel workers at the junior college level.

Procedure

The first step in the procedure was to survey historical and background material relevant to student misbehavior and discipline to determine the general problem areas to be included in this study. They were: Unapproved Housing, Illegal Mass Activity, Disorderly Conduct, Theft, Gambling, Misuse of Privileges and Fraud, Assorted Misconduct, Alcoholic Beverages, Academic or Related Offenses, Automobile Cases, and Violation of Probation and Habitual Trouble-making.

Employing the law profession's method of research and briefing, a compilation was made of the statutes and court decisions

relevant to each area to be studied.

An interview with student personnel administrators yielded information concerning each school's disciplinary regulations and practices. An interview check list was constructed for that purpose. A frequency chart of the mention of the separate disciplinary offenses was maintained during the interviews.

A comparison of the colleges' disciplinary practices was then made to the statute or judicial decision relevant to the given area of misconduct. The number of offenses was reported.

Findings

The result of this study was the establishment of a comparison between college disciplinary regulations and practices with state statutes and judicial decisions relevant to eleven general areas of student misconduct: The findings are as follows:

Unapproved Housing

All colleges endeavored to maintain maximum capacity of all domiciliary units at all times. The judicial decision giving legal foundation for the colleges' control of student housing was not understood by all personnel administrators, but its legal ramifications were employed, nevertheless.

The in loco parentis concept founded all regulations concerning the control of reporting times in the housing units. These regulations varied little from institution to institution.

It was found that during heavy enrollment periods that many of the students were obliged to live off campus because of insufficient

dormitory space. Three of the personnel administrators interviewed reported bias in renting to certain college students. No regulation in any of the handbooks studied forbids bias in renting to college students.

Unlawful Assembly and Riots

No state statutes or judicial decisions were found specifically governing the conduct of college students relevant to riots and unlawful assembly. All schools interviewed were cognizant of the general Oklahoma statute regulating this offense and each handbook carried a statement regarding such conduct. Although a crime punished by civil courts, all illegal mass activity or near riot offenses were processed through college disciplinary channels.

In all schools, the students were accorded the right to assemble, to select approved speakers, and to discuss issues of their choice. All student personnel administrators stated that when a student organization wished to invite an outside speaker, regulations required the group to give sufficient notice to the college administration. Five of the six student personnel deans stated that permission would be withheld if the speaker was a controversial figure.

Meeting rooms and other campus facilities were made available, as far as their primary use of educational purposes permitted, on an "approved organization" basis.

Student organizations and individual students were required to have special permission to distribute pamphlets and collect names for petitions concerning campus and off-campus issues. Only one school

stated that an orderly demonstration would not be prohibited.

Disorderly Conduct

Both state statutes and judicial decisions are recorded regulating college activity described as disorderly conduct. Twelve statutes alone were passed in the early years regulating "hazing". The courts have handed down some twenty-one decisions involving college student misconduct. Oklahoma statutes govern vandalism, loitering, abusive language, and peeping tomism. The college regulations do not cover each separate offense as categorized by the statutes and the courts, but instead each handbook has a "general conduct" clause covering all the disorderly conduct offense.

Theft

Oklahoma has on its books a general statute covering theft. However, no statute exists relevant only to theft offenses involving college students. The courts have held that suspending a student who was accused of theft was within the jurisdiction of the college and institutions have legal basis to do so. The college use of common-law in this area is great. Restitution of property stolen, probation and suspension have legal basis for punishment where theft offenses are involved.

Gambling

There are no state statutes that govern gambling by college students, neither has there been a court case reported that involved participation by a college student. Oklahoma has two laws, one covering gambling in general, the other designed to regulate raffles and lotteries.

Although five schools had regulations that prohibited gambling, all schools reported that raffles, lotteries, and other games of chance were commonly practiced. Each administrator was aware that such practices were illegal. No case was reported in which local law enforcement officers endeavored to restrict or halt the practice of college raffles and bingo parties.

Misuse of Privileges

Oklahoma law is the basis on which the college officials urge this type of offense be prosecuted. Of the twenty-nine cases reported, eleven were turned over to proper authorities for processing through civil courts.

The colleges all agree that the misuse of the school identification card, check writing, and fraud cannot be tolerated.

The school officials report that all the students involved in such offenses, welcomed the chance to submit to college disciplinary practices rather than to be remanded to the civil court.

Restitution of money, probation, and relinquishing of certain privileges are all within the structure of legal college disciplinary practices.

Assorted Offenses

Fraternity Membership and Campus Organizations

Only two times during the period under study was the college called upon to refer to state statutes and court cases to determine the legality of refusing a group of students permission to form a

social fraternity. The statutes and court cases both reflect the institutions prerogative in such cases.

Students are free to organize and join associations for educational, political, religious and cultural purposes. The fact of affiliation with extra-mural associations and national organizations requires approval by the administration prior to official recognition. In only two cases were the schools refused affiliation.

Organizations are required to file a list of members with the names of officers disclosed to all people irrespective of organization or interest.

Social clubs and fraternities are not permitted to function in any school under this study.

Misconduct of Student While Under Parental Supervision

An early court decision in the state of Missouri influenced one junior college in the state to forego processing a case of misconduct that happened while the student was under the supervision of his parents. Only in cases where it is positively shown that the parent has supervision of the student is the in loco parentis control of the student waived.

At times, other than under parental supervision, the non-academic life of the student is regulated by the college and the disciplinary officer of the institution is held partially responsible for the non-academic activities of the individual student.

Use and Possession of Firearms

The prohibiting of all student owned firearms from college property has legal basis for the three state colleges whose regulations forbid this practice. There are laws on the statute books that are specific in prohibiting firearms on college property. No court cases have been recorded.

Alcoholic Beverages

The court cases which are concerned with alcoholic beverages deal only with the location of the liquor store in relation to the college property. Oklahoma law covers the general citizenry, but also gives to the colleges strong basis for stringent institutional regulations. Colleges are reluctant to permit the civil courts to process disciplinary cases involving purchase, possession, and consumption of alcoholic beverages. Only in cases where there is strong indication that the beverage is purchased with an illegal identification card will they turn the case over to civil authorities.

Academic Dishonesty

Although there are statutes on law books of two states pertaining to the cheating of college students, Oklahoma has no such law. Court cases are numerous, however, of students testing action of the colleges against them concerning academic dishonesty. Only in cases where it was positively shown that the student did not receive a fair hearing did the courts rule against the institution.

No case involving academic dishonesty has ever been tried in the courts of Oklahoma. The colleges' regulations governing this

offense are well defined and have legal precedents established in the courts.

Automobile Cases

The legislatures and the courts have left the regulations governing the possession and use of automobiles strictly to the institutions. The general laws of Oklahoma apply to all students as well as any limitations placed on them by the respective colleges.

All student personnel people are in accord in the practice of permitting the civil courts to process the automobile cases in which college students are involved if the offense occurred on property other than college owned.

The practice of heavy fines, prohibiting the use of the automobile on the campus, as well as probation and suspension are all based upon common law of in loco parentis.

Conclusions

(1) The statutes governing the behavior of the college student are outdated and far removed from the realities of campus life. If the statutes are to be valuable, they must be consistent with the mores of society. The mores are in a state of flux; legislation remains static.

(2) In dealing with college disciplinary cases, the courts have relied on legal precedent. Many cases, however, have been argued on analogy. The decisions reached by this method are inconsistent with each other.

(3) The state courts have been reluctant to rule against the colleges in matters of disciplinary control and will do so only when an action by the college is so unreasonable as to constitute an abuse of discretion.

(4) The disciplinary procedures of the six state supported junior colleges often preclude the students right to appeal decisions which result in suspension or expulsion. The New Oklahoma Administrative Procedures Act makes it mandatory in cases of this type that a student be given opportunity to be heard by a disciplinary board where he can present evidence, testimonial or documentary support on his behalf.

(5) The disciplinary procedures of the schools included in this study are largely based upon the common law of in loco parentis. Little stress is given to the fact that, having complied with the requirement of the New Administrative Procedures Act of 1963, the college regulations have the same regulatory effect as a state statute.

(6) Those in charge of student conduct are hesitant to refer a student offender to the civil courts for prosecution and will do so only in extreme cases.

(7) The colleges favor some kind of group procedures for handling disciplinary problems, but in actual practice, one individual decides the disposition of the cases before him.

(8) The colleges are negligent in the utilization of the institutional disciplinary processes as learning situations.

Recommendations

The recommendations made as a result of this investigation are an attempt to make possible the improvement of the college disciplinary procedures in the six state supported junior colleges in Oklahoma.

It is recommended that:

(1) The junior colleges make use of the findings in this study to explore the present status and potential of their disciplinary programs.

(2) The administrators of the disciplinary programs in the respective schools accept a constructive point of view toward disciplinary situations. Responsibility for regulations on academic matters should rest with the faculty and administration. Regulations governing the conduct of students should be enacted by a committee composed of students, administrators, and faculty members.

Regulations governing the behavior of students should be clearly and fully formulated, published, and made available to the whole academic community. They should be reasonable and realistic. The rules should not be over elaborated and should not seek to govern student conduct in every detail. Each rule should guide the student in the development of mature attitudes. The rules that are formulated should be specific definitions, not general criteria as "conduct unbecoming to a student."

(3) That the faculty join the administration in making and enforcing the regulations for disciplining of students for academic derelictions. Failure to meet academic standards is presently grounds for probation or dismissal in all schools included in this study.

The junior college is a unique organization in that it is a transitional step between the secondary school and the four year college. As such, it is imperative that it offer every possibility for the student to establish his future academic program on a firm basis.

If the student is expelled for academic failure, he may find it difficult or impossible to continue his educational career. He should be protected by every procedural safeguard. This is particularly necessary since the courts have rarely granted the student legal review or redress; they have assumed that the academic institution itself is in the best position to judge culpability. This places the personnel administrator in the unique position of being prosecutor and judge, and having at the same time the moral obligation to serve as a trustee of the student's welfare.

(4) That all student personnel administrators abide conscientiously by the "due process" law of Oklahoma, The New Administrative Procedures Act.

Although the Act specifically deals with student expulsion, it is recommended that no student either be expelled or suffer major disciplinary action for any offense without having been advised explicitly of the charges against him, which at his request should be in writing. He should be free to seek the counsel of a faculty member of his choice or a legal advisor. Should he admit guilt, but consider the penalty excessive, or should he claim to be innocent, he should be entitled to a hearing by a review committee. After ample notice, such a hearing should be held by a faculty-student committee, or if

the student prefers, by a faculty committee. The hearing committee should examine the evidence, hear witnesses as to the facts and the student's character, and weigh extenuating circumstances. The student should be allowed to call witnesses on his own behalf and confront and cross-examine those who appear against him. If the review committee's decision as to the student's innocence or guilt is questioned, and in the latter case, appropriate punishment is not acceptable to the college administration, and appeal could be made to the board as proposed in recommendation five.

(5) That institutions included within this study establish a student appeal board composed of personnel from the respective schools. This board should deal specifically with the rights and privileges of the students. It should be free to establish its own rules and policies for the protection of all concerned. Any further appeal could be made to the state courts.

(6) That the non-academic life of the student, both private and public, be free of college control. On the other hand, the institution should not be held responsible for the non-academic activities of its individual students.

The college must regard the individual both as a private citizen and as a student. It must recognize that his being a student is sometimes irrelevant to his private status. In this private status, he should not be subject to punitive measures by the college, unless the college can prove that he has acted in a way which adversely affects or seriously interferes with its normal educational function, or which injures or endangers the welfare of any of its other members.

Students who violate a local ordinance or any law upon the statute books, should be made to realize they risk the legal penalties prescribed by the civilian authorities. The college personnel administrator should not hesitate to refer a student to civilian authorities if the violation is one that should be processed through the civil courts.

(7) That whenever numbers of students are obliged to live off-campus because of insufficient dormitory space or because they are married, the college student personnel administrator should ensure that private rentals are on a non-discriminatory basis.

(8) That students should be accorded the right to assemble, to select speakers, and to discuss issues of their choice. The personnel administrator should provide the student the same right as any other citizen to hear different points of view and draw their own conclusions. At the same time, the personnel dean should request the faculty and college administrators to acquaint the students with the nature of organizations and causes that are presented to the student body.

(9) Students should be free to organize and join associations for educational, political, social, religious or cultural purposes. Any campus group which plans to organize within legal bounds should be allowed to organize in any educational institution. The administration should not discriminate against a student because of membership in any such organization.

(10) The six state supported junior colleges publish a composite list of general regulations and disciplinary processes of the respective schools. Further information or methods of enforcing

these regulations and controlling student behavior through some form of government would be of value to the administrators who are charged with control of student conduct.

(11) That short courses on college disciplinary law be offered periodically to those in charge of institutional social control. A greater awareness of the role played by the legislatures and the courts in regulating student conduct is essential for an effective disciplinary program.

Considerations for Additional Study

In pursuing the problem outlined in this study, the writer became aware of related problems which, if examined, might add to the total knowledge in the field of junior college student personnel work. The following topics are suggested as areas for additional research:

(1) The development of an evaluation instrument for junior college disciplinary programs.

(2) To survey and analyze the training programs designed for student personnel administrators to determine the nature and extent of emphasis upon student social control problems.

(3) To initiate an in depth study of the in loco parentis concept in relation to the students' constitutional rights.

APPENDIXES

APPENDIX A

**A Detailed Breakdown of the Statutes About Student
Behavior Arranged by Date of Passage and by State**

STATUTES REGULATING STUDENT BEHAVIOR

BY STATE AND DATE OF PASSAGE

STATUTES	Arizona	California	Colorado	Connecticut	Delaware	Georgia	Illinois	Kansas	Kentucky	TOTAL
Due Process										0
Hazing		1929	1935				1901			3
Alcohol - Undesirable Influences		1952	1935		1935	1935		1949		5
Discipline of Students	1901								1934	2
Athletics - Tickets				1947		1943				2
Fraternities				1932						1
Cheating										0
Loitering										0
Firearms										0
Bribery			1961			1960			1951	3
Credit to Minors				1930						1
Gambling										0
TOTAL	1	2	3	3	1	3	1	1	2	17

STATUTES REGULATING STUDENT BEHAVIOR
BY STATE AND DATE OF PASSAGE (Continued)

STATUTES	Louisiana	Michigan	Minnesota	Mississippi	Missouri	Nebraska	New Jersey	New Mexico	New York		TOTAL
Due Process											0
Hazing	1920						1903		1894		3
Alcohol - Undesirable Influences			1897			1935		1901			3
Discipline of Students		1915			1908				1948		3
Athletics - Tickets				1948							1
Fraternities				1926							1
Cheating									1892		1
Loitering											0
Firearms				1880							1
Bribery											0
Credit to Minors											0
Gambling									1881		1
TOTAL	1	1	1	3	1	1	1	1	4		14

STATUTES REGULATING STUDENT BEHAVIOR
BY STATE AND DATE OF PASSAGE (Continued)

STATUTES	North Carolina	Ohio	Oklahoma	South Carolina	Tennessee	Texas	Virginia	Washington	Wisconsin	Total	GRAND TOTAL
Due Process			1963							1	1
Hazing	1913	1893		1909	1923	1913	1928			6	11
Alcohol - Undesirable Influences	1889	1889	1940					1892		4	13
Discipline of Students		1852	1921	1899					1931	3	9
Athletics - Tickets		1956				1940			1955	3	6
Fraternities										0	2
Cheating	1939									1	2
Loitering				1919	1897					2	2
Firearms										0	1
Bribery	1960		1961			1960				3	6
Credit to Minors							1919			1	2
Gambling	1824									1	2
TOTAL	5	4	2	3	2	3	2	1	3	25	56

APPENDIX B

Interview Check List and Questions

INTERVIEW CHECK LIST

STUDENT DISCIPLINE OFFENSES FOR SIX STATE SUPPORTED JUNIOR COLLEGES

FOR ACADEMIC YEARS 1965-66 AND 1966-67

CATEGORIES	Number of Offenses	Action	Were Offenses Covered in Approved Regulations	Disciplinary Procedures Used
1. Unapproved Housing				
2. Illegal Mass Activity				
3. Disorderly Conduct				
4. Theft				
5. Gambling				
6. Misuse of Privil- eges and Fraud				
7. Assorted Mis- conduct				
8. Alcoholic Beverages				
9. Academic or Related Offenses				
10. Automobile Cases				
11. Violation of Probation				

- ACTION:
1. No action
 2. Warning
 3. Recorded Probation
 4. Non-recorded Probation
 5. Suspension
 6. Expulsion
 7. Civil Court

INTERVIEW QUESTIONS
COLLEGE DISCIPLINARY PROCEDURES

SCHOOL _____ ADMINISTRATOR _____

A. RESIDENCE HALLS:

Are the regulations in the student handbook? _____
Do you have curfew hours for men? _____ Women? _____
Class and scholastic standing make any difference? _____
Are activities held on week days or on week ends? _____
Are "campuses" awarded as punishment for dormitory rule infract-
ions? _____

B. ALCOHOLIC BEVERAGES:

Regulation in student handbook? _____
Can beer be served at any school function? _____
Can beer be served or alcoholic beverages be kept in living units
of married students? _____
Do you try to handle the infractions of the alcohol rule "on campus"
or do you turn the respective cases over to the civil authorities?

C. FREQUENTING ESTABLISHMENTS OF ILL REPUTE:

Regulation in student handbook? _____

D. USE OF TOBACCO:

Regulation in student handbook? _____
Is use restricted to certain areas or buildings _____
Do you make any distinction between boys and girls? _____

E. USE OF AUTOMOBILES:

Regulation in student handbook? _____
All students permitted to have cars? _____
Any restriction as to age or academic standing? _____
Car decals required? _____ Cost? _____
Re-register for second semester? _____ What organiza-
tion gets the money? _____

F. GAMBLING:

Regulation in student handbook? _____
Dishonesty left up to instructor and student? _____
Cases ever referred to discipline committee? _____
Are "F's" awarded for cheating on periodical tests? _____
How about final? _____

INTERVIEW QUESTIONS
COLLEGE DISCIPLINARY PROCEDURES (Continued)

Ever result in expulsion from class? _____ College? _____
Does freshman or sophomore standing make difference? _____

G. FIREARMS:

Statement in regulations? _____
Do you permit storage? _____ Reserved for any season? _____
Are the guns registered? _____
Are guns permitted in automobiles? _____
If permitted to store, must guns be broken down? _____

H. HAZING:

Statement in regulations? _____
Any rule regarding peculiar dress worn to class? _____
Reserved for classes? _____ Organizations? _____

I. STUDENT MARRIAGES/PREGNANCY:

Regulation in student handbook? _____
Must officials be notified? _____ Any approval necessary? _____
_____ Any rule governing expectant mothers continuing
in school? _____ How about expectant mothers who are not
married? _____

J. RIOTS AND RAIDS -- UNLAWFUL ASSEMBLY:

Statement in student handbook? _____
Any reference to women's halls? _____
Any statement on inter-campus raids? _____
Do you permit student protest gatherings and marches? _____
Do you permit students from other schools and people who are not
students to have gatherings and protest marches? _____
Must all meetings be authorized by your respective office? _____

K. POLITICAL MEETINGS:

Statement in student handbook? _____
Is there one faculty advisor on the campus who schedules these
meetings? _____ Do you keep an approved list which is
made up prior to each semester? _____
Are any organizations specifically blacklisted? _____

PROCEDURES TO ENFORCE COLLEGE REGULATIONS

1. What is the title of the chief student personnel officer? _____
2. Do you have a dean of men? _____ Women? _____
Full or part time? _____

INTERVIEW QUESTIONS
COLLEGE DISCIPLINARY PROCEDURES (Continued)

3. Do these people actually function or their positions on paper only? _____
4. Are your disciplinary policies determined by the faculty? _____
Students? _____ Administration? _____ Combination? _____
5. Do you have a formal disciplinary committee? _____
Administration? _____ Students? _____ Faculty? _____
How appointed? _____
6. Does a student disciplinary board hear the case prior to the formal board? _____
7. Does the student have an appeal route to the president of the college? _____
8. Is your president actually the one who suspends or expels or is he just notified? _____
9. When a student goes before the discipline committee, is he allowed to present witnesses, evidence and documentary support for his defense as in court, or does the disciplinary committee serve as an investigating and review agency? _____
10. Roughly, what percentage of all the disciplinary cases which are handled by your office is disposed of by a summary decision? _____
11. Are notations made on the transcript of disciplinary action taken against the student? _____ Are records kept in the student's personnel folder? _____ For how long? _____ Is the folder ever passed on to the receiving school? _____
12. Do you feel that the Oklahoma Procedures Act of 1963 has been a help to you in the disciplinary process of your school or do you feel that it is tying your hands with red tape? _____
13. How many times this year have you felt the need to employ the procedures set forth in the New Oklahoma Procedures Act? _____
14. Do you follow the New Oklahoma Procedures Act in cases other than those requiring suspension or expulsion? _____
15. How many times this year has your president become directly involved in disciplinary proceedings? _____
16. Do you have a statement in your catalogue or handbook which states that the college reserves the right to dismiss a student for whatever reason it deems necessary and does not have to give a reason for dismissal? _____
17. Do you have a student court? _____ What offenses? _____
18. Dormitory discipline committees? _____
19. Do you have any form of the honor system? _____

APPENDIX C

Schools and Officials Participating in this Study

COLLEGES AND OFFICIALS PARTICIPATING IN STUDY

<u>SCHOOL</u>	<u>FALL, 1966</u> <u>ENROLLMENT</u> - -	<u>DEAN OF STUDENTS</u>
Cameron State College Lawton, Oklahoma	2,430	Charles Elkins
Connors State College Warner, Oklahoma	548	Louise Carter
Eastern Oklahoma A. & M. Wilburton, Oklahoma	1,116	June Cope
Murray State College Tishomingo, Oklahoma	751	Ray Cleveland
Northeastern Oklahoma A. & M. College Miami, Oklahoma	1,750	Charles Angle
Northern Oklahoma Junior College Tonkawa, Oklahoma	1,005	Ralph Herrin

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- (6) The Pacific Reporter, Est. 1883. Reports fully decisions of courts of last resort in: Calif., Colo., Idaho, Ore., Mont., Nev., N.M., Kan., Okla., Ariz., Utah, Wash., and Wyo.
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