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CLASSIFYING AND ASSESSING THE EFFECTIVENESS OF JUDICIAL
PROCEDURES IN MISSISSIPPI COMMUNITY COLLEGES

By

Edward Rice II

A Dissertation
Submitted to the Faculty of
Mississippi State University
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for the Degree of Doctor of Philosophy
in Community College Leadership
in the Department of Leadership and Foundations

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CLASSIFYING AND ASSESSING THE EFFECTIVENESS OF JUDICIAL
PROCEDURES IN MISSISSIPPI COMMUNITY COLLEGES

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This study classified and compared the judicial procedures that mirrored the criminal justice system with judicial procedures that were less formal and more student-oriented. The judicial procedures of Mississippi's Community and Junior Colleges are the focus of the study. Each school's judicial procedure was classified and placed on a continuum based upon its formality. Formality was determined by analyzing the terminology, characteristics and structure of an institution's judicial procedure. After each school's judicial procedure was classified, various outcomes (total number of cases adjudicated, total number of appeals filed, number of sanctions overturned by appeal, the rate of recidivism, and lawsuits filed against the institution that were related to a judicial hearing) were studied to determine which type of judicial procedure was most effective in adjudicating students.

The results of the study indicated that there was no significant difference between judicial procedures that were highly legalistic and resembled the criminal justice system and those judicial procedures that were less formal and more student development

oriented. Furthermore, it was determined that high formality institutions adjudicated more students than both low and medium formality institutions. Finally, it was discovered that a judicial procedure that had a combination of legalistic principles and student development theory would be the most effective method of adjudicating students.

DEDICATION

I would like to dedicate this research to my mother, Annie Rice, my father, Edward Rice, Sr. and my deceased mother-in-law, Lodene Stokes Carter. Thank you for all of the support and love that you have given me.

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CHAPTER I

INTRODUCTION

Judicial procedures, or procedures for adjudicating students, have been in existence since the early history of higher education. Initially, the university acted in loco parentis of its students (Kaplin & Lee, 1998). This dogmatic and domineering practice existed in the higher education system for over 200 years. This doctrine was not related to the amount of judicial safeguards owed to the student by the university, but to the amount of control the administration had over the lives of its students. In 1961, the scope of higher education changed forever. *Dixon v. the Alabama State Board of Education* (1961) officially ended the era of in loco parentis and forged a new era of higher education. Students were no longer subject to the unchallenged control of the dean of the college (Bickel & Lake, 1999). They were now viewed by the courts as adults and subject to all rights and privileges provided by the United States Constitution. College and universities immediately scrambled to formulate judicial procedures to protect the Constitutional rights of their students. This was not an easy task for university student affairs professionals because the court systems were vague and unclear on the role of the university in the judicial process. Greene (1969) wrote that the United States Court System had failed to provide a clear standard regarding student rights. He states, “A student can receive substantially different results in a case involving similar facts and issues depending upon which jurisdiction the suit is brought” (p. 468).

Between the 1960's and 1980's, several court cases provided structured guidelines that assisted the university and college community to make the appropriate changes to their institutions' judicial procedures: *Paine v. Board of Regents of the University of Texas System* (1972/73) which focuses on equity in judicial hearings; *Andrews v. Knowlton* (1975) which focuses on procedures required prior to an honor code hearing); *Soglin v. Kauffman* (1969) which focuses on vague rules and regulations; and *Esteban v. Central Missouri State College* (1969) which guarantees procedural due process for students accused of violating the student code of conduct. College and university students were now afforded more procedural safeguards than at anytime in history.

The first generation of judicial procedures mirrored the criminal justice system. These procedures were extremely rigid and highly formal. While students were granted more procedural rights, the judicial process remained even more punitive than ever before. These highly formalized legalistic judicial codes, however, posed concerns within the college community. It became increasingly difficult for administrators to equate the highly punitive nature of these formalized judicial procedures with the teaching and learning mission of the college. *Pavela* (1979) suggested that highly legalistic judicial systems limit the concept of responsibility for the student, and reduces an administrator's chance to protect the college community quickly and effectively.

The second generation of judicial procedures was grounded in student development theory. These procedures viewed discipline as a means of teaching and learning and were less punitive and more student development driven (*Fitch*, 1997). The college or university served as an advocate of the accused student. The adversarial

relationship that exists in a formal judicial procedure is almost nonexistent in this particular procedure.

The latest generation of judicial procedures has characteristics of both informal and formal judicial procedures. Fitch (1997) considered this judicial procedure to be a mixed or hybrid system. This system is grounded in student development theory and focuses on the teaching and learning mission of the college, and has some legalistic implications.

In 1996, Fitch found that judicial procedures could be quantitatively classified as formal, informal, or mixed by studying their terminology, structure, and characteristics. Fitch surveyed the judicial procedures of over 200 Research I Doctoral Degree granting institutions and was able to classify each procedure and place them on a continuum based upon their characteristics. Fitch also found that effectiveness could be determined by comparing the formality of an institution's judicial procedure to outcome measures typically reported by campus judicial officers (Fitch, 1997).

In the last ten years, researchers have suggested that judicial procedures should again be revisited (Dannells, 1997). With the increases of violent and disruptive behavior on college campuses, judicial procedures have once again become an issue. Despite an increased interest in the study of campus discipline and judicial procedures, it is surprising that so little research has actually been conducted from the perspective of classifying and assessing effectiveness of judicial procedures. This study seeks to address the gap in the literature that exists between the student and the effectiveness of an institution's judicial procedures.

Statement of the Problem:

Campus judicial procedures are a vital part of maintaining order and discipline on a college campus. An institution's judicial process reflects its mission and core values. Student Affairs professionals are charged to craft judicial procedures that not only take into account the core values, but also pass the United States court system test of not being discriminatory, capricious, or arbitrary. Furthermore, student affairs professionals must also decide whether their judicial procedures should be formal and resemble the criminal justice system, or be informal and focus on student development. This combination of components makes developing judicial procedures very difficult.

As the amount of disruptive behavior on college campuses increases, student affairs professionals are challenged to develop judicial procedures that effectively address disturbances on their campuses. Regardless of which type of judicial procedure is crafted (formal, informal, or mixed), effectiveness is the key.

This study is guided by two main areas of inquiry:

1. Is there a significant difference between those Mississippi Community and Junior Colleges judicial procedures that are categorized as informal and less legalistic in nature and those categorized as formal and less legalistic based upon criteria such as terminology, processes and characteristics?
2. Does a comparison between the two types of judicial procedures provide a meaningful assessment of which system is more effective and justify implementation on a college campus?

Further this study was guided by the following research questions:

1. What type of judicial procedures (informal, formal or mixed system) are Mississippi community colleges practicing?
2. Which type of procedure yields the highest rate of appeals among violators?
3. Which type of procedure has the most sanctions overturned as a result of an appeal?
4. Does the rate of recidivism for violators vary among the three judicial procedures?
5. Is one system more prone to litigation than another?
6. What processes and procedures are common across the types of judicial procedure systems?

Purpose of Study

The purpose of this study is to classify and compare judicial procedures that mirror the criminal justice system with judicial procedures that are less formal and more student-oriented. Various components of each judicial procedure will be compared to determine which type of judicial procedure is more effective. The following components or outcomes will be studied: (a) total number of cases adjudicated; (b) number of appeals; (c) number of sanctions; (d) rate of recidivism; and (e) lawsuits filed against the institution that were related to a judicial hearing. The judicial procedures at Mississippi's fifteen community colleges will be the focus of the study. Each school's judicial procedure will be classified and placed on a continuum based upon the formality of its judicial procedure (informal, formal, or mixed). Formality will be determined by studying terminology, characteristics, and structure of an institution's judicial procedure.

Establishing which judicial procedure is most effective will be very useful information to colleges and universities that are seeking to evaluate and refine their judicial procedures.

Justification of the Study

Wood and Wood (1996) stated that judicial affairs personnel must be aware of the fundamental fairness that is due their students and constantly evaluate policies and procedures to safeguard the rights of students. Judicial affairs professionals should foster interactions among students, faculty, staff and administrators to assure that the principles of due process are conveyed throughout the college community. The most effective means of conveying these principles are through judicial procedures. Institutions are obligated to research and craft judicial procedures that effectively deter and reduce the number of disciplinary infractions on their campuses.

Nicklin (2000) reported in *The Chronicles of Higher Education* that arrests on college campuses have significantly increased, especially in the areas of alcohol and drugs. Nicklin further suggested there have also been increases in the number of murders, sex offenses, hate crimes, and assaults on college campuses. The sheer number of infractions brought to judicial officers is overwhelming. These increases of violent crimes along with the record number of students being diagnosed with mental disorders require college administrators to revisit their current judicial procedures. Additional information on which judicial procedure is most effective in adjudicating student misbehavior is needed to address the changing environment that is being witnessed on college and university campuses throughout the country.

Definition of Terms

The following definitions clarify the terms used in this study:

Adjudication: The process of settling disciplinary disputes at post-secondary institutions.

Administrator: Any person authorized by an institution to conduct or resolve internal disputes at any level of college-classroom professor, a member of an academic committee, the chair of a department, a dean, a provost, an ombudsman or another officer of an institution charged with responsibility to provide due process in disputes arising within the institutional community. Depending on the nature of the case being considered the administrator may perform some, all, or none of the functions of the hearing officer, the decision maker, and/or the prosecutor or complainant.

Administrative Discipline/Judicial Process: Sometimes referred to as a “hearing body or board” and means any person authorized by the college or university to determine whether a violation of a code conduct occurred and to recommend imposition of sanctions (Paterson & Kibler, 1998). He or she adjudicates incidents of disruptive behavior by students and imposes sanctions if the individual is found culpable of the violation. The Federal Courts General Order of 1968 specifies that this system is not charged with adjudicating or prosecuting crimes.

Adversarial Relationship: The relationship between an institution and a student that is characterized by strict rules and punitive measures.

Allegations: Statements that describe a respondent’s failure to take required actions which are contained in the notice and about which proof is offered by the prosecutor or administrator at the hearing.

Appeal: A request for a review of a sanction rendered by a judicial committee to a higher committee.

Characteristics: Those elements or components common to judicial procedures

Code of Student Conduct: An established set of procedures and parameters that governs student conduct, informs the college or university members of acceptable behavior parameters, and reflects the mission of the institution.

Dean of Students. The senior officer within an institution is responsible for all services to students outside of the classroom. Examples of other titles these individuals may hold are Vice-President for Student Services, Dean of Men, Dean of Student Life or Dean of Women.

Formal Judicial Procedures: Highly structured judicial procedures that mirror the criminal justice system in its functions.

Hearing: An opportunity for a respondent to be heard in opposition to the charges or allegations.

Hearing Decision: The official ruling on hearing issues and allegations in a particular case. The hearing decision is usually in writing, but it may be announced orally. It should address each allegation contained in the notice and should describe opportunities for appeal and deadlines.

Hearing Issues: Statements contained in the notice that define the scope of the hearing

Hearing Panel: A group of people who preside over and decide the hearing issues in a due process hearing. The panel may comprise any two or more students, faculty members, administrators, officials or other member of an institutional community (Kaplan & Lee, 1995).

Incident: Refers to one student's exhibiting disruptive behavior. This is a concept that applies to disruptive behavior which persistently or grossly interferes with the academic or administrative activities on campus. It is a violation of the code of conduct that ordinarily actively hampers the ability of others on the campus to learn and/or teach.

In loco parentis: Latin term borrowed from Old English Law that means "in place of the parent." This tenet was used during the early years of higher education as a means of controlling every aspect of a college student's life (Bickel & Lake, 1999).

Informal Judicial Procedure: Judicial procedures that view discipline as an extension of the classroom. Focuses on teaching and learning and is highly grounded in student development theory.

Institution: A public or private college or university in the United States. The words *university*, *college*, and *institution* are used interchangeably.

Judicial Procedures or Judicial System: The process of using set guidelines to adjudicate students that have violated the student code of conduct. These procedures can be categorized as: formal judicial procedure, informal judicial procedure and mixed or hybrid judicial procedure.

Judicial Officer/Student Affairs Professional: Individuals who are responsible for and assist in the administering of judicial procedures on a college or university campus.

Litigation: To engage in legal proceedings with the assistance of an attorney.

Mississippi Community College System: The oldest community college system in the United States that consists of fifteen two year schools distributed throughout the state.

Mixed or Hybrid Judicial Procedure: Judicial procedures that have characteristics of both informal and formal judicial procedures. These procedures are crafted to reflect the cultural values of the college or university.

Notice: An oral or written communication from an institution's administrator to the respondent providing enough information about the charges or allegations so that the respondent can prepare a defense.

Preponderance Standard of Evidence: This is the rule evidence often adopted for discipline/judicial processes on campuses. This standard of proof requires that the evidence presented weigh more heavily to support the charges against the accused (Stevens, 1999).

Probation: A written reprimand for a violation of a specific community standard and during such time the student is not in good disciplinary standing with the college or university.

Recidivism: A student who is a repeat offender of the code of student conduct and has been adjudicated one or more times.

Respondent: A member of an institutional community whose conduct becomes the subject of a potential sanction by the institution.

Reviewer of appeal: The official who conducts the review of an adverse decision.

Sanction: A penalty imposed on an individual for violation of the student code of conduct.

Senior Student Affairs Officer: The senior administrator at an institution who is responsible for oversight of all services to students outside the classroom. Examples are Vice-President of Student Affairs, Dean of Students, or Dean of Student Life.

Violator: A student who has been accused of breaching the student code of conduct.

CHAPTER II

REVIEW OF THE LITERATURE

A review of the literature discovered limited research studies that investigated relationship between effectiveness and classified types of judicial systems in higher education settings. The most significant research in this area was completed by Fitch and Murray (2001). Their study primarily focused on Judicial Systems at Research I Doctoral Granting Institutions. This study focused on community colleges, specifically the Mississippi Community College System and would fill the gap in the literature as it relates to judicial procedures.

The following information provided in the literature review encompasses a historical perspective of judicial procedures, the rise and fall of *in loco parentis*, due process systems, and applicable case law.

Colonial Student Discipline

Throughout history, colleges and universities have struggled with the discipline of their student bodies. As Thomas Jefferson wrote to his colleague, Thomas Cooper, in 1822:

The article of discipline is the most difficult in American Education. Premature independence, too little repressed by parents, begets a spirit of insubordination, which is the greatest obstacle to science with us and a principal cause of its decay since the Revolution. I look to it with dismay in our institution, as a breaker ahead, which I am far from being confident we shall weather. (Stoner & Lowery, 2006, p. 1)

Judicial procedures and discipline have been the very lifeblood of sustaining order on our college campuses. They come in a variety of forms. To thoroughly understand these procedures, we must first examine the evolution of student discipline (Fitch, 1997).

College Discipline in the 1700's (Colonial Period)

In the early years of American higher education, many students who enrolled in college were as young as thirteen years old and lacked the self-discipline to meet the rigorous demands of the college curriculum. Since parents could not physically be with their children to guide them through the perils of life, the college assumed the position of a surrogate parent (Goodchild, 1997).

Students were exposed to a very strict and uncompromising form of governance that was totally concentrated on punitive forms of discipline. Every moment of a student's life was affected. Instruction and discipline were the essentials of daily life. Dannells (1997) states, "The treatment of students and the atmosphere it produced resembled a low grade boy's boarding school straight out of the pages of Dickens" (p. 3). College administrators of this era believed that the farther away a student lived from his family the better (Goodchild, 1997). Goodchild wrote:

Since they doubted the mother's ability to teach the child to behave with decisiveness and authority, it became important for boys to learn how to command authority from those who claimed to know: their teachers... In short, emulation presumed that one learned how to behave by watching others, and boys could receive the wrong impressions at home (p. 116).

Disciplinary actions against students were stern and swift. There were no legal safeguards as we know today. If a student was accused of a violation, he was immediately punished with very little, or in most cases, no recourse. Corporal

punishment, expulsions and fatherly counseling were all forms of disciplinary actions that could be taken against a student.

Moral education and shaping the behavior of all members of the society were important societal goals. The Puritans of New England have left behind a fairly full record of their efforts. Moral education was a means to good behavior. As McClellan (1999) points out in *Moral Education in America*, the Puritans were Calvinists and believed in pre-destination:

They did not think that moral education could assure salvation for the non-elect, but they were convinced that it could encourage good behavior and create a society that would both glorify God and win divine blessings in the form of stable, harmonious and prosperous communities. (p. 2)

Moral citizens would help the Puritans survive in the new world.

The family's main responsibility during this period was that of moral education of its children. The laws of these early colonist required that parents "provide their children with an understanding of the doctrines of faith, laws and values of the society while also teaching them to read and to follow a useful occupation" (McClellan, 1999, p. 2). These laws were relatively easy to enforce because the communities were so close in proximity. Since this education was for the good of the whole society not just one individual's salvation, all were concerned and took a role in the moral education of the children. Civil authorities occasionally checked in on families to see that they were bringing up their children properly. Those that did not meet this standard were subject to criminal penalties as well as the disapproval of their community (McClelland).

Formal schooling for all of the settlers was very rare. If they did attend school, it would only be for a short period of time. This education was more available in New England than the other colonies. Formal education went beyond the pedagogy of

catechism to where “students learned to interpret Scripture, understand theology and apply knowledge of the liberal arts to the great moral, religious and social questions of the day” (McClellan, p. 6). The result of this education would give the Puritans “educated leaders to interpret the Scriptures to the less learned and to serve a broadly educational function on all matters related to the morality” (McClellan, p. 6).

Like the moral education of children in the home, the role of early colleges satisfied the needs of the early society and just the aspirations of those who attended. The Puritans need higher education to satisfy their societal goals because if they were “unable to set the world straight as Englishmen in England, the Puritan settlers in Massachusetts intended to set it straight as Englishmen in the New World” (Rudolph, 1990, p. 5). They had what Rudolph called a “responsibility to the future” (Rudolph, p. 5). This responsibility necessitated learned clergy and teachers for the new society. The education was intended for saving souls and for creating and propagating a good and stable society.

Prior to the revolution in 1776, the colonies established nine colleges. These institutions were not outside of the public realm and functioned with the support of the state. Yet, the ties for many institutions were as strong or stronger with denominational supporters. Overly broad generalizations cannot be made. While Harvard, Yale and William and Mary had a strong relationship with both church and state, Princeton received no state funds (Rudolph, 1990). Religious ties were also not so clear: Harvard permitted Anglican students to worship at their church in 1760, and King’s College actively tried to downplay its affiliation with the Anglican Church (Rudolph).

Each institution responded right from the beginning to its own needs and its own particular situation. There was no one system for accomplishing the goals for higher education. As Rudolph (1990) points out, higher education was not a popular endeavor. It remained for a few men in the society. The colleges were overwhelmingly aristocratic enterprises, providing moral education to the future leaders of the society. For the majority of colonists, life in the new world was extremely difficult. Across the colonies, it was hard to send a son to college. Even if they could have paid tuition requirements, it would be difficult for them to spare a son from the farm.

The curriculum of the early colleges had English roots and “the concept of effective religious control” (Rudolph, p. 26). The dormitory model of the early colleges was heavily influenced by the English along with the “idea of the college as essentially aristocratic in clientele and purpose” (Rudolph, p. 26). The entire concept of higher education was English in nature: “The emphasis on teaching rather than on study; on students, rather than scholars; on order and discipline, rather than learning--all this derived from patterns which had been emerging in the residential colleges of the English universities” (Rudolph).

College Discipline 1800-1840 (Federal Period)

Colleges and universities in the 1800’s began to change their focus from religious training to educating citizenry and alleviating the social problems of the country (Dannells, 1997). Most of the colleges during this period adopted the same policies as the colonial colleges. The goal of higher education was to train young men from all walks of life to serve their government. The goals of each period may have differed in scope, but they both held similar beliefs in the guidance and discipline of students. While there may

have been variations among institutions and their policies, the goals of each were still the same. Leonard (1956) writes:

In practice the discipline programs ranged from gentle personal persuasion and friendly admonition to full-scale espionage systems... The kind of program varied not only among different institutions but at different times within each institution depending on many factors both within and without the colleges. (p. 47)

Ascension of In loco parentis

In loco parentis was borrowed from Old English Law and means *in place of the parent* (Bickel & Lake, 1999). The theoretical principle of *in loco parentis* was not related to the duties owed to the student by the college but the amount of control the college had over its student body. In 1765, Sir William Blackstone, Judge of the Court of Common Pleas was credited as being the first to reference the use of *in loco parentis* in an educational setting (Bickel & Lake, 1999).

Blackstone commented on English Law to the effect of recognizing the father as the parent who may delegate part of his authority to the schoolmaster to restrain, correct and discipline a student as needed. Even though Blackstone applied *in loco parentis* to English Grammar Schools, college administrators and faculty began using this tenet to deal with their student population. Since the ultimate goal of the strict, regimented principles of English Colonial Education was to develop and educate young men to become religious leaders, *in loco parentis* was a perfect mechanism to achieve this end. It was not until 1826 that Chancellor James Kent embedded this English Law Practice into the United States:

As they (parents) are bound to maintain and educate their children, the law has given them the right of such authority; and in support of that authority, a right to exercise of such discipline as may be requisite for the discharge of their sacred trust.

So the power allowed by law to the parent over the person of the child, may be delegated to the tutor or instructor, the better to accomplish the purposes of education. (Schwartz, 1987, p. 261)

In 1837 the case of State vs. Pendergrass was the earliest interpretation of *in loco parentis* by the American judicial system. The courts found that the schoolmaster was like a public official and had the right to submit corporal punishment on a student as needed. This interpretation opened a wide range of disciplinary actions that could be taken against a student.

The most common form of corporal punishment during this period was boxing a student's ear (Dannells, 1997). This humane form of punishment would require a student to be forced to his knees and repeatedly hit him on his ears.

Faculty and Judicial Responsibility

In the early beginning of the American college adjudication of students was the responsibility of the President. At Dartmouth College, the President would hear the cases of students and recommended the appropriate punishment for the violators (Williamson, 1949).

It was not until the late 1800's that the role of the President would change. Yale College offered the position of President to Timothy Dwight, but he refused to accept the position if it required him to discipline students. The College Board at Yale conceded and removed the disciplinary role from his list of duties. With this precedent in place,

other prospective candidates for President began making this same request (Goodchild, 1989). A void now existed in the discipline of the student body which was quickly filled by the faculty. The President designated various faculty members to make the difficult decisions concerning discipline of students. This was not welcomed by the members of the student body.

Students resented faculty for their active involvement in the discipline process. It was not surprising between the years of 1800-1840 that several colleges reported riots by the student body because of the authoritarian and controlling environment of the college community (Rudolph, 1990).

The worst riot took place at the University of Virginia where a faculty member was killed (Brubacher & Rudy, 1958). Faculty also resented their new roles as disciplinarians. Many faculty members during this period received their education in Germany and England where a discipline specialist was used (Dannells, 1997). These new found responsibilities angered faculty and agitated the student body. College administrators began to feel the pressures from faculty and began to relieve them of some of their disciplinary responsibilities, allowing them time to concentrate on class preparation (Leonard, 1956).

Colleges continued to closely monitor student behavior. Faculty members were replaced with new college graduates called tutors. They immediately became actively involved in monitoring student behavior. "Tutors seldom lasted long enough to become experienced at anything but dodging stones thrown through their windows or bottles thrown at their dormitory doors by unappreciative students" (Rudolph, 1990, p. 162). Their compensation was minimal in respect to the hardships of the job.

College Discipline 1840-1900's

The latter years of the 1800's were categorized by population movements to the West, increasing wealth amongst Americans, and polarization on the issue of slavery. Admission policies began to ease and colleges began accepting and enrolling an increasing number of students. Colleges and universities really began to see tremendous amounts of growth equal to that of the English universities.

Two schools of thought on discipline evolved during this heightened period. The first school of thought was similar to the discipline system of the colonial college which consisted of very strict control and highly dogmatic principles of discipline. The other school of thought resembled the educational system in Germany where the student was viewed as a responsible and mature adult (Brubacher & Rudy, 1958). James Marsh at Vermont, Eliphalet Nott and Simeon North at Hamilton, and Francis Wayland at Brown are considered to be the founders of this more relaxed form of discipline.

The evolving of this new relaxed system can be attributed to the changing demographics of the student body. As admissions standards began to relax, colleges and universities became attractive to all types of students. Higher education was no longer reserved for the rich, powerful elite.

As the student populations began to increase, it became apparent to college administrators that it was no longer possible to control and monitor the student body as it once did. Colleges such as Amherst began including students on its judicial boards. This change characterized the changes that occurred as new institutions modeled on old ideas adapted to the new world: "The abandonment of these practices clearly recorded the

humanitarian spirit that was loose in the Western world, but it may also have meant that the early college was being Americanized (Rudolph, 1990).

College Discipline 1900 to 1950: Transitional Period

At the beginning of the twentieth century, a philosophical change begins in the universities views of their student bodies. “The strict authoritarian patriarchal family was making no headway in American life, and for the colleges to insist upon it was for them to fight the course of history” (Smith, 1990, p. 104).

This relaxing of college and university attitudes on discipline indicated that the efforts of President Jefferson at the University of Virginia and President Seelye at Amherst College of treating students like adults were spreading. Through their efforts, students began to see the formulation of honor codes, judicial boards, and student government associations. This was considered to be a significant step for students in the college governance process (Brubacher & Rudy, 1958).

As faculty responsibility for discipline declined and the age of the tutor was eliminated a new position was created: the Dean of Men and/or the Dean of Women. These positions became almost a standard on the college campus (Dannells, 1997).

The positions of Deans of Men and Women became the philosophical and practical side for students by offering counseling as well as punitive measures for discipline. This became the first organized disciplinary system for students (Smith, 1994). Thomas Clark, a professor of rhetoric at the University of Illinois was the first male administrator to carry the title of Dean of Men (Schwartz, 2001). Dannells (1997) explains:

The early deans expanded on both the philosophy and practice of student discipline. Philosophically they were humanistic, optimistic and idealistic. They approached discipline with the ultimate goal of student self-control or self discipline, and they used individualized and preventative methods in an effort to foster the development of the whole system. (p. 8)

This new position would later evolve into the position of University judicial officer or Dean of Discipline.

However, in 1913 *in loco parentis* was revisited by the court system. The court case of Gott v. Berea College firmly reestablished *in loco parentis* in higher education and served as a notice to college students that the courts were still intrigued by this practice. The Kentucky Court of Appeals concluded in this case that colleges had the right to prohibit its students from patronizing a local tavern.

Berea College, whose students were largely immature and inexperienced country youths, and which itself provided board and lodging for a nominal charge and gave the students opportunity to earn their way through school, etc., could under its charter, empowering the board of trustees to make such legal bylaws as were necessary to promote its interest, prohibit students from entering eating houses and amusement places in the town, not controlled by the college on pain of dismissal. (Gott v. Berea , 1913, p. 217)

While the appellate court was crystal clear in the Gott case, universities and colleges during the 1930's, 1940's and 1950's continued experimenting with a more humanistic approach to discipline. Students continued to receive more and more fundamental rights.

With the creation of the GI Bill, older and worldlier students began entering through the college gates (Kaplin & Lee, 1995). These students marched and lobbied for more rights and opportunities for self governance which lead to population increases.

College Discipline 1960's-The Death of In-Locho-Parentis

The 1960's was characterized by the civil rights movement, the Vietnam War, the Cuban Missile Crisis, the assassinations of John Kennedy and Martin Luther King, Jr., and the death of *in loco-parentis*. The country was going through a major transformation, and at the center of this transformation were the colleges and universities. Prior to the 1960's, the relationship between the college and a student rested on the premise of *in loco-parentis*. However, that swiftly changed in 1961.

Dixon v. Alabama State Board of Education was the landmark case that dealt a death blow to *in loco-parentis*. Dixon and five other Alabama State College students were expelled from school without notice of charges and without a hearing. The students had participated in a lunch counter sit-in and had not violated any university, state, local or federal laws. The Fifth Circuit Court held that a student's enrollment with knowledge of the College's rules providing for dismissal without cause cannot be considered an expression of the student's intent to waive notice and a hearing before expulsion. Moreover, even if such were true, the State cannot condition the granting of even a privilege upon the renunciation of the constitutional right to procedural due process. Indeed, the court observed, Alabama has required that even private associations must provide notice and a hearing before expulsion, in the absence of a clear and explicit waiver.

The court found a significant private interest at stake in the case of students subject to expulsion from a public college or university. It held that the right to remain at a public institution of higher learning is vital, since 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. Expulsion not only would interrupt the student's studies at his current institution, but would also prejudice the student in completing his education at any other institution. (Dixon v. Alabama State Board of Education, 1961)

For the first time the court system began to look at the judicial practices of colleges and universities and forced them to evaluate their policies and develop due process procedures for disciplinary cases (Kaplan & Lee, 1995). Dixon also required public colleges to provide the names of witnesses against the alleged violator, an oral or written report of the facts to which each witness testified, the opportunity to present a defense before the disciplinary board or college administrative official, and the opportunity to produce supporting oral testimony or written affidavits.

These new procedural safeguards were the new antidote for *in loco parentis*. The courts had spoken, and institutions of higher learning had to face the harsh reality that college students would be guaranteed protection under the constitution and were recognized by the federal government as adults.

Due Process: Procedures that are Due

Due Process as defined by the Fifth and Fourteenth Amendments ensures that the government will provide its citizens with substantive fairness and certain procedures or processes before depriving an individual of life, liberty and property interest. After the Dixon decision, the courts ruled that a student at a public institution of higher learning had a property interest in education and should be afforded due process (Ardaiolo, 1983). College and university administrators immediately began establishing disciplinary codes

of conduct to address this new paradigm in higher education. The results were quite favorable for both the student and the university.

Students received guaranteed due process protection and the courts gave the university wide latitude to develop its adjudication process. This is best exemplified by an article written by the U.S. District Court, Western District of Missouri:

In the field of discipline, scholastic and behavioral, an institution may establish any standards reasonably relevant to the lawful missions, processes, and functions of the institution. It is not a lawful mission, process, or function of a public institution to prohibit the exercise of a right guaranteed by the Constitution or a law of the United States to a member of the academic community in the circumstances. Therefore, such prohibitions are not reasonably relevant to any lawful mission, process or function of a public institution. Standards so established may apply to student behavior on and off the campus when relevant to any lawful mission, process or function of the institution. By such standards of student conduct the institution may prohibit any action or omission which impairs, interferes with or obstructs the missions, process and functions of the institution.

Standards so established may require scholastic attainments higher than the average of the population and may require superior ethical and moral behavior. In establishing standards of behavior, the institution is not limited to the standards or the forms of criminal laws. [General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax-Supported Institutions of Higher Education, 45 F.R.D 133, 145 (W.D. Mo. 1968)]

Due Process and Protected Property Rights

Under the due process clause of the Fourteenth Amendment, states may not deprive any person of life, liberty, or property without due process of law. Protected property rights are created by such sources as state statutes granting persons certain benefits. In *Goss v. Lopez*, the seminal case establishing the due process rights of students in public school disciplinary proceedings, the Supreme Court held that students

had a property interest in education that required minimal due process protections before any disciplinary suspension could be imposed. The Court found that the property interest in education derived from an Ohio state statute providing free public education to all children from 5 through 21 years and requiring compulsory education for a minimum of 32 weeks per school year. Virtually all states have similar state laws entitling children to the benefits of public education and compelling attendance which is more evident in secondary education than in higher education.

Based on *Goss*, therefore, students have a property interest in public education that cannot be denied or otherwise taken away through disciplinary suspension or expulsion without due process of law.

In *Goss*, the Court rejected the school district's defense that the suspension was too short to be significant, finding the interest a protected one: "In determining whether due process requirements apply in the first place, we must look not to the 'weight,' but to the nature of the interest at stake" (quoting *Board of Regents v. Roth*, 408 U.S. 564, 570-71, 1972). The *Goss* Court held that when a student is threatened for disciplinary reasons with possible suspension and other punishments affecting access to education, the student must receive oral or written notice of the charges against him, an explanation of the facts against him, and an opportunity to present his side of the story. The Court did not require that a formal hearing be held, suggesting that such a hearing would be expensive and would harm the effectiveness of the teaching process.

Consistent with *Goss*, courts have determined that when sanctions effectively deny students access to education, students are deprived of protected property rights, and thus, must be provided due process protections. Some examples include: *Gorman v.*

University of Rhode Island, 837 F.2d 7, 12 (1st Cir. 1988; long-term suspension affected student's interest in pursuing education that is protected by the Fourteenth Amendment); Cole v. Newton Special Municipal Separate School District, 676 F.Supp. 749, 752 (S.D. Miss. 1987); without opinion 853 F.2d 924 (5th Cir. 1988; suspension followed by in-school isolation in an alternative setting for remainder of term, relying on Goss for the proposition that exclusion from the educational process is the key issue). The district court in Cole stated: "The primary thrust of the educational process is classroom instruction; therefore minimum due process procedures may be required if an exclusion from the classroom would effectively deprive the student of instruction and the opportunity to learn." (Cole v. Newton Special Municipal Separate School District, 1987).

On the other hand, in Zamora v Pomeroy, 639 F.2d 662 (10th Cir. 1981), the appellate court held that the temporary removal and assignment of a student to an alternative educational school did not rise to a constitutional violation and thus did not invoke the court's jurisdiction. It is noteworthy that the court only reached this conclusion after finding that the plaintiff student's basic due process rights had been met and were satisfied. Considering the seriousness of the infraction by the student who had been found in possession of marijuana, the court ruled that because the plaintiff was continuing to receive education, and was not deprived of any benefit other than removal from the baseball team, that the disciplinary sanction did not violate a protected interest. Similarly, in Navarez v. San Marcos Consolidated Independent School District, 111 F.3d 25, 26-27 (5th Cir. 1997), the Court of Appeals for the Fifth Circuit found that there is no

property right to participate in a particular curriculum and thus, transfer to another school for disciplinary reasons does not invoke federal court jurisdiction.

More recently, in a case where a student was subjected to a short suspension of three days, a court, nonetheless, looked first to the cumulative effect of the suspension and other sanctions on the student's access to education. Next the court indicated that if a student's being denied access to education meant being unable to participate in class discussion, to hear class lectures, to take notes in preparation for exams, such loss of meaningful opportunity might rise to a deprivation of a property interest and, therefore, require procedural due process protections. In assessing whether constitutional protection were warranted, the court held that the entire punishment imposed on the student must be considered as a whole, not as separate elements. Accordingly, in *Riggen v. Midland Independent School District*, MO-99-CA-66 (W.D. Tx. 2/23/2000), the court held that the "entire punishment of three days suspension, five days assignment to Alternative Education program, and requiring two letters of apology as a condition of participating in graduation exercises, is sufficient to implicate his protected property interests in education and invoke minimum due process protections,..." although the plaintiff was not expelled and only received a short suspension. Citing *Goss v. Lopez*, 419 U.S. at 576: "Neither the property interest in educational benefits temporarily denied nor the liberty interest in reputation, which is also implicated, is so insubstantial that suspension may constitutionally be imposed by any procedure the school chooses, no matter how arbitrary."(p. 25)

Academic and Disciplinary Decisions

The courts clearly distinguish the depth of due process protection required in academic decisions in respect to the more stringent protection due when institutions of higher education impose penalties for disciplinary reasons. In the case of the Board of Curators of the University of Missouri v. Horowitz (1978), the Court ruled that because a university apprised a student of her academic deficiencies and gave her several fair opportunities to correct her problems, no formal hearing was required before her dismissal. Academic evaluations were seen as more subjective and evaluative than the factual issues in a disciplinary case and are not well suited for adjudicative procedures.

Contract Theory: Public Private Dichotomy

Contract Theory as it relates to higher education is defined as a special relationship between an institution and a student. This relationship requires the student to submit to the rules and regulations of the college, while requiring the university to abide by its published rules (Public and Private College) and provide constitutional rights for its students. If either party varies from the stated rules and regulations, it would be considered a breach of contract (Public College). Contract Theory has been applied in housing, financial aid, and food services (Kaplan & Lee, 1995). The very essence of student rights was born out of contract theory.

In 1901 one of the earliest cases involving contract theory was Koblitz v. Western Reserve University (1901) ruled that a student must submit to all reasonable discipline in a school. In the Syracuse v. Anthony (1928) the New York Supreme Court upheld the universities decision to dismiss a student because she was considered to be a troublemaker in the sorority house. According to Kaplan and Lee (1995): “The

institution was given virtually unlimited power to dictate the contract terms and the contract, once made was construed to be heavily in the institution's favor" (Kaplan & Lee, 1995 p. 6).

In *Fellheimer v. Middlebury*, 1994 the courts visited the unique relationship between a private institution and a student. Ethan Fellheimer was accused of rape and was notified in writing of the rape charge. At the disciplinary hearing, Middlebury College added additional charge of "disrespect to persons." Subsequently, Mr. Fellheimer was not able to give an adequate defense for the new charge. The court stated that because Middlebury failed to give Mr. Fellheimer appropriate notice to the additional charge, they breached their agreement to provide students with procedural protection as outlined in its Student Handbook. (*Fellheimer v. Middlebury College*, 1994, p. 27).

Substantive Due Process

Substantive Due Process is related to the concept of legality and source of fairness beyond the Constitution and is decided mostly through Fundamental Rights and Compelling Need Tests (Kapin & Lee, 1995). It is also considered the "due process of law" and a continuation of life, liberty, and property. The modern notion of substantive due process emerged in decisions of the U.S. Supreme Court during the late nineteenth century. In the 1897 case of *Allgeyer v. Louisiana*, 165 U.S. 578, 17 S. Ct. 427, 41 L. Ed. 832, the Supreme Court for the first time used the substantive due process framework to strike down a state statute. Before that time, the Court had generally used the Commerce Clause or Contracts Clause of the Constitution to invalidate state legislation (Kaplin & Lee, 1995). The *Allgeyer* case concerned a Louisiana law that made it illegal to enter into certain contracts with insurance firms in other states. The Court found that the law

unfairly abridged a right to enter into lawful contracts guaranteed by the Due Process Clause of the Fourteenth Amendment.

In the 1969 case of *Scott v. Alabama State Board of Education*, several students were suspended and expelled for holding demonstrations in front of the cafeteria. The institution construed their actions as disruptive and acted swiftly in this matter. The students filed suit against the institution claiming they were denied the rights to a fair hearing and to free speech, a substantive due process guarantee. The court ruled:

“The plaintiff seem to be arguing that irrespective of the college’s interest in orderly operation of it’s dinning hall, their conduct was protected symbolic free speech because they intended by their conduct to communicate their dissatisfaction with certain actions of the college” (*Scott v. Alabama State Board of Education* 300 F. Supp. 163, 1969).

Procedural Due Process

The most obvious requirement of Procedural Due Process Clause is that institutions of Higher Learning afford certain procedures ("due process") before depriving individuals of certain interests ("life, liberty, or property"). Although it is probably the case that the framers used the phrase "life, liberty, or property" to be a shorthand for important interests, the Supreme Court has adopted a more literal interpretation and requires individuals to show that the interest in question is either their life, their liberty, or their property --if the interest does not fall into one of those three boxes, no matter how important it is, it does not qualify for Constitutional protection (Kaplin & Lee, 1995). Procedural Due Process serves two basic goals: One is to produce, through the use of fair procedures, more accurate results; to prevent the

wrongful deprivation of interests. The other goal is to make people feel that the government has treated them fairly by listening to their side of the story.

Procedural Due Process is essentially a guarantee of basic fairness. Fairness can, in various cases, have many components: notice, an opportunity to be heard at a meaningful time in a meaningful way, a decision supported by substantial evidence, etc. In general, the more important the individual right in question is, the more process that must be afforded. In the 1968 *Esteban v. Central Missouri State College* case the courts were very specific in the amount of procedural due process that was required. The 8th Circuit Court held that the students in question were not afforded procedural due process and demanded the Central Missouri State to offer the following: (1) a written statement of the charges to be given to the student 10 days prior to the hearing; (2) a hearing before an adjudication board; (3) the opportunity to inspect any documents the college plans to use at the hearing; (4) the right to bring counsel to the hearing; (5) the right to make or have made at their own expense a transcription of the hearing; (6) the right to a written summary of the hearing with results; (7) the right to question adversarial witnesses; (8) the right to present their account of the facts; and (9) the right to a fair hearing based on all the evidence (*Esteban v Central Missouri, 1968*).

In the 1975 case of *Goss v. Lopez*, the U.S. Supreme Court ruled that students in a public high school were entitled to minimal due process procedures such as notice and some form of hearing (*Goss v. Lopez, 1975*). (p. 21) Unlike the *Esteban* case, the Supreme Court was not as willing to afford a true formal hearing to the involved students. The court stated: “We do not believe that school authorities must be totally free from notice and hearing requirements... The student must be given oral or written notice of the

charges against him and if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story” (Goss v. Lopez, 1975). The Due Process Clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school [Goss v. Lopez 419 U.S. at 581].

Terminology

University and College judicial procedures are reflective of the philosophy of the institution. At the center of these procedures is the language/terminology that is used within these procedures. Judicial Procedures that are highly legalistic in their terminology are indicative of procedures that are formal in nature and strict in interpretation. Judicial procedures that are not as legalistic with their terminology are not as formal and are more student-centered. Much can be determined about an institution and its interpretation of due process by looking at its use of terms in the judicial procedures.

Attire

The attire required of the members of the Judicial Boards is a direct reflection of the formality of a judicial procedure. Institutions that require members of its judicial board to wear robes signify the formality of the judicial procedure. Such formality could serve as an intimidation factor for the accused violator of the code of conduct. However, the wearing of such formal attire would also exhibit to students the institution’s value of professionalism in its judicial procedures.

Notice

The basic element of notification in the adjudication process requires that a student be given details of the charges brought against him/her and the rule or violation that describes the conduct (Dixon v. Alabama State Board of Education, 1961). Students should be provided sufficient details to assure that they can present the best defense. The courts have been ambiguous of how much notice is enough.

In the Esteban case, (10) days was cited as sufficient notice to prepare for a hearing; however, in the Jones v. Tennessee State Board of Education case two days was considered adequate time to prepare (Kaplin & Lee, 1995).

In the case of Due v. Florida A&M, the courts granted the university wide latitude in notifying a student. Patricia Due and Reubin Kenon were contacted on the day of their disciplinary hearing by the Dean of Students and asked whether they had received their notice for a disciplinary hearing. Both students responded that they had not received their notice, but they agreed to go ahead with the hearing. Both students were found responsible and subsequently removed from the university. Both students filed a suit against the college claiming they did not have notice of the charges. The court concluded that the university provided adequate notice and the students were given the opportunity to a hearing and the most important aspect of due process was met (Due v. Florida A&M, 1963).

Hearing

The Dixon, Goss and Gorman cases set the framework for student hearings. These cases established at minimum that students would have an opportunity to present their case to an independent unbiased hearing committee or a hearing officer (Kaplin,

1990). Formal rules and structure of the hearing process are left to the discretion of the institution. The courts have been unclear on a student's right to cross examine witnesses, right to counsel, and a right to appeal. However, the more procedural safeguards the college affords students during this process, the more favorably the courts will view the institution if it is litigated (Kaplin, 1990).

Burden of Proof

Innocent until proven guilty is the central theme of the judicial process. When a college or university seeks to discipline a student it bears the burden of proving guilt or responsibility. Evidence of guilt must be presented. Students then have to be given some opportunity to rebut the evidence. The standard of proof or degree of certainty with which a fact must be established can be a bewildering topic.

Universities and colleges are required to base their disciplinary decisions on "substantial evidence". This means that there must be more than some mere morsel of evidence to support a finding of guilt. There should be enough evidence to convince a reasonable and impartial fact-finder of the conclusion.

In fact, however, courts cannot actually hold disciplinary boards to this standard. A deep principle of the law holds that when a higher court reviews certain types of decisions made by lower courts, it must defer to the lower court's judgment on certain particular subjects, avoiding second guessing its findings in these special areas. This is one such area. In order for a reviewing court to throw out the verdict of a university disciplinary hearing on grounds of the standard of proof, it must go beyond finding that the hearing's decision was not based on "substantial evidence". It must find that the verdict was not based on any evidence at all.

If the court finds there was “some evidence” to support the charge, it must, all other things being equal, uphold the ruling. The “some evidence” standard is satisfied if there is any evidence at all supporting the charge, but not if there is no evidence. If the court determines that there was some evidence but not what it would consider to be substantial evidence, the decision of conviction must be upheld. In the case of McDonald v. Illinois (1974) the court ruled that the general principle of the reviewing court should give deference to the decisions of the administrative panels.

The standards of proof required of colleges and universities by law, then are a far cry from those of the criminal justice system, where conviction has to rest on guilt beyond a reasonable doubt. However, many universities employ a much greater standard of proof than the law requires and they would be unable to defend morally a lesser criterion. Most use the standard of “clear and convincing” evidence, which requires a reasonable certainty of guilt for conviction. The vast majority of schools employ, at the very least, a “preponderance of evidence” standard, which requires that guilt be more likely than not for conviction. This is minimal standard for proof necessary for conviction. After all, if the preponderance guideline is not met, this means that most of the evidence argues for innocence rather than guilt.

Open versus Closed Hearing

Whether a judicial hearing should be open or closed to the public has been a site of controversy for a number of years. Courts have generally held that at public universities due process does not require that disciplinary hearing be open to the public even if the student requests it. In *Zanders v. Louisiana State Board of Education* (1968), the state court ruled: “Indeed for the benefit of the students involved...it would seem

more fitting to allow all charges and defenses to be made before the Board itself, not as a Star Chamber proceeding, but in genuine effort to protect the students against unwanted and probably inaccurate news media reporting” (p. 768).

College and university officials might tend to opt for a closed hearing rather than an open hearing because it is easier to render campus justice outside the watchful eye of the public. At private colleges and universities, a student has no right to an open hearing because private universities can set virtually whatever rules they please, within reason.

Cross Examination of Witness

The judicial system is divided concerning the right of a student to confront and cross examine witnesses during a judicial hearing. The 11th Circuit Court of Appeals rejected a due process claim because the student was present when witnesses were questioned by the panel, the student had the opportunity to present statements and witnesses, and it was held that there was no constitutional right to cross-examine in student disciplinary hearings (*Nash v. Auburn University*, 1987). In the case of *Jaska v. Michigan* (1986), the Circuit Court of Appeals found that a student accused of cheating was not entitled to the names of anonymous fellow student accusers, noting that revealing the witnesses’ identities would possibly subject them to reprisals for coming forward and that faculty members were present to cross-examine in place of the initial witnesses.

Cases where cross-examination is most clearly required are those built solely around factual claims and charges made orally by a witness. For example, in *Donohue v. Baker* (1997), a rape charge against a male student hinged on whether a female had consented to sexual intercourse that both agreed had taken place. The U.S. District Court for the Northern District of New York held that the accused student had the right to cross

examine the alleged victim because the only evidence that the act had not been consensual was her statement and the determination of guilt or innocence therefore rested on her credibility.

Recording of Judicial Hearing

Recording of a Judicial Hearings is another issue challenged in courts by students. Not all institutional judicial boards require a new hearing; therefore, a record of the first hearing is vital to address student appeals. A recording of the hearing will serve as proof that that disciplinary hearing was conducted fairly. By recording a hearing, an institution is protecting itself in case the student files a complaint regarding the fairness of the disciplinary hearing process. “A verbatim record, either in the form of audio tape stenographic transcript enables hearing board members to recall key portions of the testimony without relying on frail human memory and therefore, ensures that the ultimate decision will be grounded on the evidence presented” (Tenerowicz, 2001, p. 689).

To avoid challenges related to recording of hearings, it is suggested that colleges and universities keep the recording until the student has exhausted all levels of appeals. Furthermore, it is even suggested that institutions keep recordings for extended periods in case a student decides to file a lawsuit after the disciplinary process has concluded.

It should also be noted that an institution is not typically required to give a student a copy of the judicial recording. The right to the transcript or recording of the judicial hearing has been challenged in court. However, this particular issue is inconsistent in its rulings. The case of Gorman v. University of Rhode Island concluded that the university was required to make available the record or transcript of the hearing. It did not, however, conclude that the university must provide a free transcript of the hearing. Other

courts have concluded that the only reason a student should be granted a copy of the hearing is when a student is appealing the original decision and the appeal is based on the first judicial hearing. “The student needs a thorough and accurate record of the hearings below to maintain a fair defense on appeal” (Gorman v. University of Rhode Island 1986).

Right to Counsel

Since the Esteban (1969) decision, colleges and universities have been perplexed about the role of counsel in student judicial cases. The adversarial blend of an attorney into student judicial cases tarnishes the overall intended educational scope of discipline (Dannells, 1997). The courts have been very clear that neither public nor private institutions were required to allow students to be represented by counsel. However, the courts have occasionally permitted students to be represented by counsel: (1) if the school is being represented by an attorney (2) if a student has been criminally charged or will be subsequently charged for an infraction.

In the case of Gorman v. University of Rhode Island Board of Trustees, Raymond Gorman filed suit against because the Public University claiming he had been denied the right of counsel at his disciplinary hearing. Gorman had been suspended for a variety of disciplinary violations.

The Supreme Court ruled: “The courts ought not to extol form over substance and impose on an educational institution all the procedural requirements of a common law criminal trial. The question presented is not whether the hearing was ideal or whether, under the particular circumstances presented, the hearing was fair and accorded the individual the essential elements of due process” (Gorman v. University, 1988).

In the case of *Gabrilowitz v. Newman*, Gabrilowitz was charged with attempted rape and successfully argued that without counsel, his participation in the school hearing would create an unacceptable risk. The *Gabrilowitz* court held that due to the gravity of the situation and the pending criminal charges, the denial of the right to consult an attorney during the disciplinary hearing would constitute a denial of due process of law. Unless criminal charges are pending, there is no right to have an attorney present (*Gabrilowitz v. Newman*, 1978).

Administrative Hearing

The initial stage of the judicial procedure is often referred to as an Administrative Hearing (Fitch, 1997). In an Administrative Hearing, an Administrative Hearing Officer determines if a violation of the student code of conduct has occurred and then recommends sanction(s) where appropriate (Patterson & Kibler, 1998). Most incidents that are heard in this format are minor in nature and would not warrant disciplinary suspension. This type of process has been found to expedite the discipline/judicial process on campuses that handle large numbers of code violations.

Academic versus Behavioral

Cheating- the use of fraud or deception to enhance an individual's academic performance-stands at the boundary of academic and disciplinary realms. The leading decisions in academic due process are *Regents of the University of Michigan v. Ewing* (1985) and *Board of Curators, University of Missouri v. Horowitz* (1978), which both found that academic disputes require far less due process procedures than traditional due process. In situations requiring academic due process, no hearing is mandatory, although

prior notice must still be provided, preferably in time for the student to correct the perceived academic deficiencies. A court must only determine whether the decision was “arbitrary, unreasonable, or an abuse of discretion” (Szejner v University of Alaska, 1997, footnote 2), or was “careful and deliberate” (Horowitz, 1987). p 38

Evaluation of Judicial Procedures

The process of adjudication of students has changed dramatically since the landmark case Dixon v. Alabama. With so many changes in how students are adjudicated, colleges should constantly evaluate their judicial procedures. Clearly, ongoing evaluation and analysis of higher education judicial procedures, policies and due process requirements would assist college administrators to establish and maintain policies that would better serve their institutions and provide a judicial system that is grounded in reasonableness and fairness in adjudicating student disciplinary matters.

It was not until 1998 that the professional organization The Association of Student Judicial Affairs (ASJA) was established. One of their functions was to develop principles that related to judicial affairs programs. The organization then developed the Council for the Advancement of Standards in Higher Education for Judicial Programs and Services (CAS Standards and Guidelines).

Summary

A review of the literature indicates that college and university officials have traditionally struggled with the discipline of their student bodies. From the era of *in loco parentis* (Colonial Period), through the era of Dixon (Civil Rights Movement), to the era of student development (current), the adjudication of students has been and will always

be a vital part of the success or failure of an institution. As written by Thomas Jefferson in 1822 to Sir Thomas Copper:

“The article of discipline is the most difficult in American Education. Premature independence, too little repressed by parents, begets a spirit of insubordination, which is the greatest obstacle to science with us and a principal cause of its decay since the revolution. I look to it with dismay in our institution, as a breaker ahead, which I am far from confident we shall weather. (Stoner & Lowery 2006, p. 1)

Case law also indicates that institutions are continuing to see an increased number of students challenging college disciplinary procedures. There is also evidence that the very structures in place to handle disruptive behavior has become overwhelmed by the large number of challenges that are coming from today’s student. Nicklin (2000) indicated that arrests on college campuses have increased especially in the areas of drugs and alcohol. She also indicated that the number of murders, sex offenses, hate crimes and assaults has also increased. These increases of violent crime along with the record number students being diagnosed with mental disorders require college administrators to revisit their current judicial procedures.

Wood and Wood (1996) indicated that judicial affairs personnel must be aware of the fundamental fairness that is due their students and constantly evaluate policies and procedures to safeguard the rights of their students. Judicial affairs professionals must foster interactions among students, faculty, staff and administrators to assure that the principles of adjudication have been conveyed throughout the college community.

Judicial procedures of an institution must reflect its mission and vision. Judicial procedures that effectively and efficiently adjudicate students are needed to convey the importance of self control, accountability and responsibility. When students are held accountable for their actions, the college becomes a more holistic experience. Creating a

community that fosters these principles is paramount for creating a safe and supportive environment for its students grow and prosper._

CHAPTER III

METHODS AND PROCEDURES

This chapter presents the methods, procedures and techniques to analyze the data for this study. This chapter also includes the research design, target population, hypothesis, instrument and procedures.

Research Design

This study classifies and compares student judicial procedures used by Mississippi community colleges to determine if a particular judicial system is more effective in adjudicating students who violated the student code of conduct. The sample design for this study was a single stage process, the preferred approach when direct access to the sources of data is possible (Creswell, 1994). This is a descriptive study of Judicial Procedures at Mississippi Community Colleges wherein effectiveness was analyzed and compared based on key components of institutions judicial procedure.

Target Population

The population from which this study was drawn comprised of responses from Judicial Officers at Mississippi's 15 Community Colleges. To be included in the study, the colleges had to meet the following criteria: they must be coed, have on campus housing, and have a centralized judicial system. The Chief Student Affairs Administrator

was contacted to verify that the school met the aforementioned criteria. A follow up call was also made to be sure that the schools met the criteria discussed.

Instrument

The survey instrument that was used was a modified version of Gene Fitch's instrument used to classify and assess the effectiveness of judicial procedures. A survey is the preferred type of data collection procedure because it allows for identifying attributes of a diverse population in order to analyze, correlate and compare variables (Fowler, 1985) The instrument was used by Fitch in a national study of judicial procedures at Research I and Research II Doctoral Degree Granting postsecondary schools. The instrument consists of 39 questions and allows participants an opportunity to provide written feedback. The survey is divided into four sections. Section One, titled "Terminology" consisted of 10 questions that focused on key terms used in an institutions judicial procedure. All ten 10 questions were used to classify the judicial procedures on the continuum. The more formal responses were at the far left and less formal terms were at the far right. A more formal term was given a value of one and a less formal term was given a value of three or four depending on the number of responses for that particular question. Point value was random but consistent throughout the questionnaire.

Responses to the questions in Section Two, entitled "Process" contained nine questions that focused on various processes used by institutions in adjudicating students. Six of the nine questions were used to classify the institution as formal or informal. A "yes" was assigned a value equal to one and a "no" response was assigned a value equal two. Institutions that were higher in formality received a lower score on the scale.

Section Three entitled “Characteristics” consisted of seven questions that identified commonalities among institutions and their judicial procedures. Two of the questions in section three were used to classify the judicial system. Point values were assigned to the responses to the method used in Parts I and Part II. Responses consistent with a formal judicial procedure were assigned a value of one and responses consistent with a less formal system were assigned a value of two.

Section Four entitled “Outcomes” requested information concerning five key outcome measures (a) total cases adjudicated (b) number of appeals (c) sanctions modified due to an appeal (d) number of repeat offenders (e) lawsuits filed against the institution as a result of disciplinary action on a student. The results of section four will be used to determine effectiveness.

Section Five entitled “Demographics” requested information concerning the make up of the institution (population, characteristics of the make up of the judicial officer, etc.) The information compiled in this section was used for institutional make up only

Data Collection Procedure:

The intent of this research was to discern whether there will be differences in the effectiveness of the three judicial procedures that adjudicate students. The data collection instrument used in this study was a questionnaire/survey. The questionnaire requested general information about the characteristics of the college, judicial structure, demographical information, student recidivism rates, number of appeals, and lawsuits filed as a result of the judicial process.

On the days of August 12-14, 2008 names, titles, phone numbers and email addresses were obtained from the websites of all the schools in the target population. On

August 15, 2008 each of the Chief Judicial Officers were contacted by phone requesting their participation in the dissertation study. On August 22, 2008 the survey was emailed by Survey Monkey, an online survey service to the Chief Judicial Affairs Officers at the 14 Community Colleges and 1 Junior College in the Mississippi Community College system. A personalized cover letter was also emailed with the survey (Appendix) and a return deadline of September 1, 2008 was given. Each recipient of the survey was assured of the confidentiality of their responses. The institutions surveys were numbered by the online survey service to further secure confidentiality. The first email resulted in a total of 10 surveys (7 complete and 3 partially complete) which yielded a 67 % return rate.

On September 10, 2008 a second survey was personally emailed to eight schools whose survey was either incomplete or had not attempted to complete the survey. Respondents were given a deadline of September 17, 2008 to return the survey. A personalized cover letter was then emailed with the survey reiterating the importance of completing the survey (Appendix). At the conclusion of the survey deadline, a total of 11 surveys were completed which yielded a 73.3 % return rate

Data Analysis Procedures

After all survey data had been collected, each institutions level of formality was calculated. The results of the 18 selected questions in Parts I, II and Part III of the survey instrument was analyzed and converted into z-scores. The average z-score of each institution was then calculated and placed on a continuum based upon their z score position. From these results three groups were labeled and defined “High Formal” “Hybrid” and “Low Formal”. The institutions with the lowest average z-score was

placed on the far left of the continuum (formal judicial procedure) and the institutions with highest average z-score (informal judicial procedure) was placed on the far right of the continuum and any score between those two points were placed in the middle of the continuum (mixed or hybrid).

The groups that were indicated by “High Formality” had z-scores that fell within the range of -0.374 through -0.011. The groups indicated by “Medium formality” had z-scores that fell within the range of -.0012 through 0.024. The groups indicated by “Low Formality” had z-scores of 0.025 and higher. (Table 1)

Table 1 Formality of System (z-scale)

Group	N	Range
High	5	-0.374 to -0.011
Medium	3	-0.012 to 0.024
Low	3	0.025 +

SPSS software was then used to analyze the outcome measures (total cases adjudicated, number of appeals, sanctions modified due to an appeal, number of repeat offenders, and lawsuits filed as a direct results of disciplinary actions) of the classified institutions. One-way analysis of variance was calculated to determine if there was a significant difference between classified institutions outcome measures and judicial procedure effectiveness.

Frequencies and percentage were obtained for all survey items. Chi-square tests were performed to identify statistically significant differences among the different types of judicial procedures and institutional demographics. Independent variables such as

enrollment, part-time versus full-time professional in charge of the disciplinary system, evaluation and public versus private institution were also studied.

CHAPTER IV

RESULTS

Introduction

This study classified and compared student judicial procedures used by Mississippi community colleges to determine if a particular judicial system was more effective in adjudicating students who violated the student code of conduct. Data was gathered, synthesized and analyzed for 11 Mississippi community colleges. Descriptive data was derived to determine the characteristics of the sample and to more readily see similarities and differences. The effectiveness of the judicial procedures was determined by analyzing survey outcomes (total cases adjudicated, number of appeals, sanctions modified due to an appeal, number of repeat offenders, and lawsuits filed as a direct result of disciplinary actions).

This chapter will discuss descriptive information and computations derived from the collection of data. Next, it will detail the analyses of data garnered through surveys by referencing the hypothesis and research questions. Then, the chapter will report on an in-depth analysis of the same data by classifying each institution into one of three groups (Formal, Informal, or Hybrid) focusing on the specific characteristics of each group.

Statement of the Problem:

The purpose of this study focused on two inquiries. First, was there a significant difference between those judicial procedures that were categorized as informal and less

legalistic in nature and those categorized as formal and less legalistic based upon criteria such as terminology, processes and characteristics at Mississippi community colleges.

The second purpose was to determine whether a comparison between the two types of judicial procedures would provide an accurate assessment of which system is more effective and justifies implementation on a college campus.

Development of the Judicial Continuum

The 11 judicial systems were classified into three levels of formality. To obtain the three levels of formality 18 questions of the 39 item questionnaire were used to classify a college's judicial system. The responses that were given by each college were used to tabulate a score for that particular school. Each school was then placed on continuum based upon its score. A school's score was determined by the formality of its judicial procedures. School's judicial procedures that were formal in characteristics, processes and procedures would be placed on the far left of the continuum and school's judicial procedures that were informal in respect to its characteristics, processes and procedures would be placed on the far right. Institutions whose judicial procedures varied between those two points were considered to be hybrid systems.

To assure that the interpretation of a schools score was meaningful and all items used to classify an institution's judicial procedure were weighted equally each schools response on the questionnaire was converted to a z-score. Each item on the schools questionnaire was averaged to get a single z-score for the institution. Based upon the average score three cutoff points were formed (High Formality, Medium Formality and Low Formality). A school whose score was in the range of -0.374 to -0.011 was considered high formality, a school whose score was in the range -0.012 to 0.024 was

considered medium formality and a school whose mean z score was above 0.025 was considered to be low formality.

Presentation of the Statistics:

The results of this study are presented under the headings Classification of Judicial Procedures and Effectiveness of Judicial Procedures. The statistics that are used in this study are rounded and some cases will not always total to 100%.

Classification of Judicial Procedures

This section examines the formality of judicial procedures in respect to terminology, processes and characteristics. The results of the 18 items used to classify judicial procedures are presented in table format. The statistics that are used in this study are rounded and some cases will not always total to 100%.

Terminology

Section one of the questionnaire consisted of 10 questions that identified language used in a school's judicial procedure. The results in this section are presented in table format and were used to classify an institution as high formal, medium formal or low formal. The statistics that are used in this section are rounded and in some cases will not always total to 100%.

Outcome of the Disciplinary Process

Not any of the classified institutions polled used the term convicted or acquitted in its judicial procedure as the final outcome of the disciplinary process. However, 33% of the medium formality group and 60% of the high formality group used guilty/not

guilty as the final outcome of the disciplinary process. Furthermore, 66% of the low formality group, 33% of the medium formality group, and 40 % of the high formality group used in violation/not in violation as the final outcome of the disciplinary process.

Finally, 33% of the low formality group and 33% of the medium formality group used responsible/not responsible as the final outcome of the disciplinary process. A chi square test revealed a significant difference between the formality of the group and the use of the terms that determine the outcome of the disciplinary process ($\chi^2(4) = 3.96$); $p < .05$). Frequencies and percentages of responses for all groups are reported in Table 2.

Table 2 Frequency and percentage of responses for outcome of the disciplinary process

Response	Formality			Total
	Low	Medium	High	
1- Convicted/Acquitted	0 (0%)	0 (0%)	0 (0%)	0 (0%)
2- Guilty/Not Guilty	0 (0%)	1 (33%)	3 (60%)	4 (36%)
3- In Violation/Not in violation	2 (66%)	1 (33%)	2 (40%)	5 (45%)
4-Responsible/Not Responsible	1 (33%)	1 (33%)	0 (0%)	2 (18%)
	3 (27%)	3 (27%)	5 (45%)	11

The name given to the person who is accused

No low formality institution selected defendant as the name given to the individual accused of violating the judicial code of conduct. Thirty- three percent (33%) of the low formality and 80% of the high formality group selected accused as the name given to the defendant. While 66% of the medium and 66 % of the low formality group used the term alleged violator as the name given to the individual accused of violating the judicial code

of conduct. A chi square test revealed a significant difference ($\chi^2 (4) = 7.04$); $p < .05$). Frequencies and percentages of responses for all groups are reported in Table 3.

Table 3 Frequency and percentage of responses for the name given to the accused

Response	Formality			Total
	Low	Medium	High	
1- Defendant	0 (0%)	1 (33%)	1 (20%)	2 (18%)
2- Respondent	0 (0%)	0 (0%)	0 (0%)	0 (0%)
3- Accused	1 (33%)	0 (0%)	4 (80%)	5 (45%)
4- Alleged violator	2 (66%)	2 (66%)	0 (0%)	4 (36%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Name given to student alleged to have violated the student code of conduct

No group selected defendant, respondent or accused as the name given to a student who allegedly violated the student code of conduct. However, 100 % of each group selected alleged violator as the used to indicate a student who allegedly violated the student code of conduct. A chi-square test revealed a significant difference ($\chi^2 (2) = 2.933$; $p < .5$). Frequencies and percentages of responses for all groups are reported in Table 4.

Table 4 Frequency and percentage of responses a student alleged to be in violation of the code of conduct

Response	Formality			Total
	Low	Medium	High	
1- Indicted	0(0%)	0 (0%)	0 (0%)	0(0%)
2- Charged	0 (0%)	0 (0%)	0 (0%)	0 (0%)
3- Accused	0 (0%)	1 (33%)	0 (0%)	0 (0%)
4- In Violation	3 (66%)	2 (66%)	5 (100%)	11 (100%)
Total	3 (27%)	3 (27%)	5 (45%)	

Name given to the hearing body

One of the low formality school selected court as the hearing body for its judicial procedures. One medium formality school selected board as the hearing body for its judicial procedures, while no school selected tribunal as the hearing body. Sixty-six percent (66%) of the low formality and medium formality and 100% of the high formality group selected committee as the name given to hearing body. A chi-square test revealed a significant difference ($\chi^2 (5) = 5.704; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 5.

Table 5 Frequency and percentage of responses for the hearing body

Response	Formality			Total
	Low	Medium	High	
1- Court	1 (33%)	0 (0%)	0 (0%)	1 (9%)
2- Tribunal	0 (0%)	0 (0%)	0 (0%)	0 (0%)
3- Board	0 (0%)	1 (33%)	0 (0%)	1 (9%)
4-Committee	2 (66%)	2 (66%)	5 (100%)	9 (81%)
Total	3 (27%)	3 (27%)	5 (45%)	11

The name given to the disciplinary review:

No institution used the term trial as a means of describing its disciplinary review but 66% of the low formality group and 100% of the medium and high formality group selected hearing as the name given to its disciplinary review. Thirty-three percent (33%) of the low formality group selected the term meeting. A chi-square test revealed a significant difference ($\chi^2 (2) = 2.933; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 6.

Table 6 Frequency and percentage of responses for name of the disciplinary review

Response	Formality			Total
	Low	Medium	High	
1- Trial	0 (0%)	0 (0%)	0 (0%)	0 (0%)
2- Hearing	2 (66%)	3 (100%)	5 (100%)	10 (91%)
3- Meeting	1 (33%)	0 (0%)	0 (0%)	1 (9%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Name given to individuals who serve on the hearing board:

No institution responded that justices or peers were terms used for the name of the hearing board. 100 % of all institutions that responded to the survey used members as the name given to individuals who serve on the hearing board. A chi-square test revealed a significant difference ($\chi^2 (1) = .413; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 7.

Table 7 Frequency and percentage of responses for individuals who serve on the hearing board

Response	Formality			Total
	Low	Medium	High	
1- Justices	0 (0%)	0 (0%)	0 (0%)	0 (0%)
2- Peers	0 (0%)	0 (0%)	0 (0%)	0 (0%)
3- Members	3 (100%)	3 (100%)	5 (100%)	11 (100%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Actions that are taken by institution against a student who has violated the Code of Conduct

No institution responded that the term sentences was the action taken against the student who violated the code of conduct. Thirty three percent (33%) of the low and medium formality group used the term punishes as the action taken against a student who violated the code of conduct. Sixty-six percent (66%) of the low and medium formality group and 100% of the High Formality group used the term sanctions. A chi-square test revealed no significant difference ($\chi^2 (2) = 6.519; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 8.

Table 8 Frequency and percentage of responses for the actions that are taken by the institution against a student who has violated the Code of Conduct

Response	Formality			Total
	Low	Medium	High	
1- Sentences	0 (0%)	0 (0%)	0 (0%)	0 (0%)
2- Punishes	1 (33%)	1 (33%)	0 (0%)	2 (18%)
3- Sanctions	2 (66%)	2 (66%)	5 (100%)	9 (81%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Name for the person initiating a referral

No institution surveyed used the term plaintiff as the term for the person initiating a disciplinary hearing. Thirty-three percent (33%) and 40 % of the medium and high formality groups used the term accuser. Seventy-two percent (72%) of all the respondents selected the term sanctions as the name for the person initiating a disciplinary referral. A chi-square test revealed a significant difference ($\chi^2 (2) = 1.58; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 9.

Table 9 Frequency and percentage of responses for the person initiating a referral

Response	Formality			Total
	Low	Medium	High	
1- Plaintiff	0 (0%)	0 (0%)	0 (0%)	0 (0%)
2- Accuser	0 (0%)	1 (33%)	2 (40%)	3 (27%)
3- Complainant/Victim	3 (100%)	2 (66%)	3 (60%)	8 (72%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Violators representative who accompanies the alleged violator during the hearing.

Thirty-three percent (33%) of the low formality group selected the more formal term of counsel. Seventy-two percent (72%) of the respondents selected the less legal term advisor as the representative who accompanies the alleged violator during a hearing. Twenty-seven percent (27%) of the institutions interviewed selected the term accuser. A chi-square test revealed no significant difference ($\chi^2 (2) = 11.00; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 10.

Table 10 Frequency and percentage of responses for the name given to the violators representative

Response	Formality			Total
	Low	Medium	High	
1- Counsel	1 (33%)	0 (0%)	1 (33%)	2 (18%)
2- Advocate	0 (0%)	1 (33%)	0 (0%)	1 (9%)
3- Advisor	2 (66%)	2 (66%)	4 (80%)	8 (72%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Institution's representative acting on behalf of the victim

Not any of the institutions surveyed selected the selected the term prosecutor/plaintiff. One-hundred percent (100%) of the high formality group selected accuser as the representative acting on behalf of the victim. One-hundred percent 100% of the low and medium formality group selected the less formal term complainant. A chi-square test revealed no significant difference ($\chi^2 (6) = 15; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 11.

Table 11 Frequency and percentages of responses for the name given to the institution's representative

Response	Formality			Total
	Low	Medium	High	
1- Prosecutor/Plaintiff	0 (0%)	0 (0%)	0 (0%)	0 (0%)
2- Accuser	0 (0%)	0 (%)	5 (100%)	5 (100%)
3- Complainant	3(100%)	3(100%)	0 (0%)	6 (100%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Processes

Section two of the questionnaire consisted of 9 questions that identified the processes used in a school's judicial procedures. The results in this section are presented in table format and were used to classify an institution as high formal, medium formal or low formal. The statistics that are used in this section are rounded and in some cases will not always total to 100%.

Institutions that utilize fines as a sanction in disciplinary matters

One-hundred percent (100 %) of all the Community Colleges surveyed utilize fines as a sanction in disciplinary matters. Surprisingly all of the low and medium formality groups utilize fines. A chi-square test revealed no significant difference ($\chi^2 (6) = 15.00; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 12.

Table 12 Frequency and percentage of responses for the institutions using fines as a sanction in disciplinary matters

Response	Formality			Total
	Low	Medium	High	
1- Yes	3 (100%)	3 (100%)	5 (100%)	11(100%)
2- No	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Institutions that utilize faculty prosecutors

Not any of the low or medium formality group utilizes faculty prosecutors, while 20% of the high formality group uses them. One-hundred percent (100%) of the low and medium formality group and 80% of the high formality group do not use faculty prosecutors. A chi-square test revealed no significant difference ($\chi^2 (4) = 15.68; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 13.

Table 13 Frequency and percentage of responses for institutions that utilize faculty prosecutors

Response	Formality			Total
	Low	Medium	High	
1- Yes	0 (0%)	0 (0%)	1 (20%)	1 (9%)
2- No	3 (100%)	3 (100%)	4 (80%)	10 (90%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Institution that utilize student prosecutors

One high formality institution (20%) utilizes student prosecutors. One-hundred percent (100%) of the low and medium formality institutions do not utilize student prosecutors. Eighty-percent (80%) of the high formality institutions do not utilize student prosecutors. A chi-square test revealed no significant difference ($\chi^2 (4) = 14.52; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 14.

Table 14 Frequency and percentage of responses for institutions that use student prosecutors

Response	Formality			Total
	Low	Medium	High	
1- Yes	0 (0%)	0 (0%)	1 (20%)	1 (9%)
2- No	3 (100%)	3 (100%)	4 (80%)	10 (90%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Institutions that utilize subpoenas for the accused

Sixty-percent (60%) of the high formality institutions utilize subpoenas for the accused. One-hundred percent (100%) of the low formality and medium formality institutions utilize subpoenas for the accused to attend a disciplinary hearing. A chi-square test revealed no significant difference ($\chi^2 (6) = 20.30; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 15.

Table 15 Frequency and percentage of responses for institutions that utilize subpoenas for the accused

Response	Formality			Total
	Low	Medium	High	
1- Yes	0 (0%)	0 (0%)	3 (60%)	3 (9%)
2- No	3 (100%)	3 (100%)	2 (40%)	8 (90%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Institutions that utilize subpoenas for witnesses

Not any of the low or medium institutions utilize subpoenas to summon witnesses for judicial hearings. Sixty-percent (60%) of the high formality institutions utilize subpoenas for witnesses. One-hundred percent (100%) of the low and medium formality

institutions and 20% of high formality do not utilize subpoenas to summon witnesses for judicial hearings. A chi-square test revealed no significant difference ($\chi^2 (6) = 23.60; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 16.

Table 16 Frequency and percentage of responses for institutions that utilize witnesses

Response	Formality			Total
	Low	Medium	High	
1- Yes	0 (0%)	0 (0%)	4 (80%)	4 (36%)
2- No	3 (100%)	3 (100%)	1 (20%)	7 (63%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Legal counsel permitted at the hearing

81% of the institutions that replied to this question utilize legal counsel at their disciplinary hearings. Of these respondents, 100% of the high formality groups utilized legal counsel. Thirty-Three percent (33%) of both low and medium institutions do not utilize legal counsel at their disciplinary hearing. A chi-square test revealed no significant difference ($\chi^2 (6) = 16.59; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 17.

Table 17 Frequency and percentage of responses for institutions that allow legal counsel permitted at the hearing

Response	Formality			Total
	Low	Medium	High	
1- Yes	2 (66%)	2 (66%)	5 (100%)	9 (81%)
2- No	1 (33%)	1 (33%)	0 (0%)	2 (18%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Institutions that allow counsel to actively represent themselves

Ninety-percent (90%) of all the institutions that participated in this survey and replied to this question do not permit counsel to participate in the judicial process. Only 9% of those institutions that participated allow counsel to participate and those came from the medium formality group. No high formality institution allows legal counsel to actively participate in the judicial process. A chi-square test revealed no significant difference ($\chi^2(6) = 17.73; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 18.

Table 18 Frequency and percentage of responses for institutions that allow counsel to actively represent their clients

Response	Formality			Total
	Low	Medium	High	
1- Yes	0 (0%)	1 (33%)	0 (0%)	1 (9%)
2- No	3 (100%)	2 (66%)	5 (100%)	10 (90%)
Total	3 (27%)	3 (27%)	5 (45%)	11

The burden of proof required to determine responsibility

No low or high formality institutions selected beyond a reasonable doubt as the burden of proof to determine responsibility; while only 1 medium formality institution selected beyond reasonable doubt. A total of 6 institutions (54%) selected clear and convincing as their response. Thirty-six percent (36%) or a total of 4 institutions selected by preponderance as their response to the amount of proof required to determine responsibility. A chi-square test revealed a significant difference ($\chi^2(6) = 9.02; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 19.

Table 19 Frequency and percentage of responses for institution's indicating burden of proof required

Response	Formality			Total
	Low	Medium	High	
1- Beyond a reasonable doubt	0 (0%)	1 (33%)	0 (0%)	1 (9%)
2- Clear and Convincing	1 (33%)	2 (66%)	3 (60%)	6 (54%)
3- By preponderance	2 (66%)	0 (0%)	2 (40%)	4 (36%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Institution's attire for judicial members during a judicial hearing

Table 20 shows that no institutions require judicial members to wear robes at judicial hearings. Thirty-six percent (36%) of the institutions that responded to this question stated that formal attire (no jeans) was required to be worn by its judicial members at hearings. Of that percentage, 1 low formality, 2 medium formality and 1 high formality selected formal attire. Sixty-three percent (63%) of the institutions responded that casual attire was acceptable to be worn during a judicial hearing. Two low formality, 1 medium formality and 4 high formality selected casual attire. A chi-square test revealed no significant difference ($\chi^2 (3) = 4.2; p < .5$). Frequencies and percentages of responses for all groups are reported in Table 20.

Table 20 Frequency and percentages of an institution's attire for judicial members during a judicial review

Response	Formality			Total
	Low	Medium	High	
1- Robes	0 (0%)	0 (0%)	0 (0%)	0 (0%)
2- Formal (No Jeans)	1 (33%)	2 (66%)	1 (20%)	4 (36%)
3- Casual	2 (66%)	1 (0%)	4 (80%)	7 (63%)
Total	3 (27%)	3 (27%)	5 (45%)	11

Effectiveness of Campus Judicial Procedures

Section IV consisted of data collected from colleges that assisted in the determination of the effectiveness of its judicial procedures. Colleges were asked to provide statistical data over a five year period for the following areas: (a) total cases adjudicated per year, (b) total appeals filed per year, (c) the number of appeals that were modified, (d) the rate of recidivism, and (e) the number of lawsuits filed.

There were 11 institutions that provided information about each of the items listed above. Averages were calculated for each of the groups due to some institutions not completing the all portions of this section. Averages were calculated and ratios were used to assist in determining significant differences between the three formality groups. One way ANOVAs were then used to determine any significant differences between the level of formality present within a campus judicial system and the five identified outcomes. Demographical information for each institution was also collected and analyzed.

Total cases adjudicated

Table 21 indicated that low formality institutions had a mean of 65.73 cases per year while the medium and high formality groups had means of 19.2 and 25.4 (see Table 22). A one-way ANOVA revealed no significant difference between the groups (see Table 26).

Table 21 Group means and standard deviations for total cases adjudicated per year

Formality	N	Mean	SD	Lower Bound	Upper Bound
Low	3	65.73	42.17	15	153
Medium	3	19.2	13.22	3	50
High	5	25.40	65.32	0	204
Total	1307	36.77	40.23	0	204

Total number of appeals filed

Table 22 indicated that the low formality group had the highest amount of appeals filed per year at 13.86 per year. The medium and high formality institutions had a mean score of .733 and .920. A one-way ANOVA revealed no significant difference between the groups (see Table 26).

Table 22 Group means and standard deviations for total appeals filed per year

Formality	N	Mean	SD
Low	3	13.86	19.37
Medium	3	.733	1.48
High	5	.920	1.73
Total	11	5.17	7.52

Total number of appeals revised per year

Table 23 indicates total number of appeals revised in a given year. The low formality institutions had the highest mean score for total appeals revised (4.33 per year), while the medium formality institution reported no revised appeals and the high formality institutions indicated .400 repeat offenders per year. Using ANOVA it was determined that no significant difference existed between the groups (see Table 26).

Table 23 Group means and standard deviations for total appeals revised

Formality	N	Mean	SD
Low	3	4.33	7.25
Medium	3	.000	0.00
High	5	.0400	.200
Total	11	1.45	7.31

Total number of repeat offenders per year

Table 24 indicates the total number of repeat offenders in a given year. Repeat offenders are considered to be individuals who have violated the student code of conduct on two separate occasions in a given year. The high formality institutions had the highest mean score for total number of repeat offenders 1.44 per year, while the medium formality institutions reported no repeat offenders and the low formality institutions reported .90 repeat offenders per year. Using ANOVA it was determined that no significant difference existed between the groups (see Table 26).

Table 24 Group means and standard deviations for repeat offenders

Formality	N	Mean	SD
Low	3	1.26	8.14
Medium	3	.000	.000
High	5	1.44	3.51
Total	11	.90	.388

Total number of lawsuits per year

Table 25 indicates the total number of lawsuits filed per year as a result of decision rendered at a disciplinary hearing. Only 1 institution indicated that a lawsuit had been filed as a result of a decision rendered at disciplinary hearing. This institution was a low formality institution. Using one-way ANOVA it was determined that no significant difference existed between the groups (see Table 26).

Table 25 Group means and standard deviations for total appeals lawsuits filed

Formality	n	Mean	SD
Low	3	.0083	.09129
Medium	3	.000	.000
High	5	.000	.000
Total	11	.022	.030

Table 26 ANOVA Table representing all outcomes considered

	df	F	Sig
Total cases adjudicated			
Between groups	2	18.82	.985
Total appeals filed			
between groups	2	43.04	.728
Total appeals revised			
between group	2	19.46	.950
Total repeat offenders			
between groups	2	22.68	.387
Total lawsuits filed			
between groups	2	1.00	.376

Group Means and Standard Deviations

In tables 28-30 the rate of appeals, the rate of appeals revised and the rate of recidivism among participating institutions were calculated. These rates were obtained by calculating the five year average of the total cases adjudicated and was divided by the five year average of the variable being considered. For example, to obtain the rate of appeals, the average number of cases adjudicated over five years was divided by the average number of appeals over five years. The answer would yield the rate of appeal which was then averaged across formality group.

The means and standard deviations for the low formality, medium and high formality groups were calculated in tables 27-29. In Table 31 a one-way ANOVA was performed on (a) rate of appeals (b) rate of revised, and (c) rate of recidivism. Analysis of variance showed no significant difference between the three groups on any of the three outcomes.

Table 27 Group means and standard deviations for rate of appeals

Formality	n	Mean	SD
Low	3	2.77	3.89
Medium	3	.146	.000
High	5	.184	.000
Total	11	.1.03	.030

Table 28 Group means and standard deviations for rate of appeals revised

Formality	N	Mean	SD
Low	3	.866	.0912
Medium	3	.000	.000
High	5	.080	.702
Total	11	.315	.538

Table 29 Group means and standard deviations for rate of recidivism

Formality	N	Mean	SD
Low	3	.252	.163
Medium	3	.000	.000
High	5	.288	.183
Total	11	.180	.054

Table 30 ANOVA Table for rate of appeals, rate of appeals revised and the rate of recidivism

	df	F	Sig
Rate of appeals between groups	2	.878	.423
Rate of appeals revised between groups	2	.908	.411
Rate of recidivism between groups	2	1.50	.235

CHAPTER V

SUMMARY, CONCLUSION AND RECOMMENDATIONS

This chapter will include a discussion of the findings and the appropriate conclusion to those findings. These conclusions will have implications for Student Affairs staff persons and for discipline/judicial practices at Mississippi Community and Junior Colleges. Additionally, there will be recommendations for Student Affairs personnel and recommendations for further study.

Discussions and findings

The primary purpose of this study was to classify and assess the effectiveness of judicial procedures at Mississippi Community and Junior Colleges. This study garnered information ascertained from completed surveys, computations and the compilations obtained from the responses received.

The study was guided by two research questions. The first asked: Is there a significant difference between those judicial systems classified as formal and legalistic in nature and those categorized as informal and less legalistic based upon such criteria as terminology, process and characteristics. The second question asked: Will a comparison between the two types of judicial procedures provide a meaningful assessment of which system is more effective. There were six supplementary questions also asked to guide this section:

1. What type of judicial procedures (informal, formal or mixed system) are Mississippi community colleges practicing?
2. Which type of procedure yields the highest rate of appeals among violators?
3. Which type of procedure has the most sanctions overturned as a result of an appeal?
4. Does the rate of recidivism for violators vary among the three judicial procedures?
5. Is one system more prone to litigation than another?
6. What processes and procedures are common across the types of judicial procedure systems?

Classification of Judicial Procedures

The first research question considered if there was a significant difference between judicial systems classified as formal and legalistic and those categorized as informal and less legalistic based upon criteria such as terminology, processes and characteristics. Eighteen questions on the instrument were used to determine the level of formality of an institution's judicial process. If an institution had a low average z- score on the questions it was considered to be formal and more legalistic. If an institution had a high average z-score on the questions it was considered to be informal and less legalistic. Based on the responses of the institution to the survey items, there was consistency in the responses of the high formality group and the low formality group. The responses of the high formality schools were more indicative of an institution that had a more legalistic

judicial procedure and the responses of the low formality schools were indicative of an institution that had a less legalistic judicial procedure.

The first three sections of the survey (Terminology, Characteristics and Process) addressed research question number one. In several instances it was discovered that institutions whose judicial procedures were high in formality selected responses that were indicative of an institution whose judicial procedure was low in formality and vice-versa. Question # 6 asked for the title of the individuals who served on the disciplinary hearing committee, 100% of the high formality institutions selected the less formal response of “members” instead of the more formal response of “justices” or “peers.” Question # 7 asked institutions to provide their terminology for the action taken against a student who violated the Student Code of Conduct. 100% of the high formality institutions selected the less formal response of “sanctions” instead of the more formal response of “sentences” or “punishes.” In question #10 the opposite was found. It was discovered that 100% of the low formality and 100% of the medium formality institutions stated that they used the more formal choice of fines in disciplinary matters, than the less formal answer of not using fines. Another question asked if legal counsel was permitted at a judicial hearing; 66% of the low formality group and 66% of the medium formality group allowed legal counsel at judicial hearings which was the more formal response to not allow legal counsel at judicial hearings. In the question of attire for judicial member during a judicial hearing, it was found that 66% of the low formality institutions and 80% of the high formality institutions selected the low formality response of casual attire instead of the more formal response of robes and formal attire.

Effectiveness of Judicial Procedures

The second research question asks whether a comparison between the two types of judicial procedures provides an accurate assessment of which system is more effective. Section Four titled “Outcomes” requested information concerning five key outcome measures (a) total cases adjudicated (b) number of appeals (c) sanctions modified due to an appeal (d) number of repeat offenders (e) lawsuits filed against the institution as a result of disciplinary action on a student.

Institutions responding to total cases between groups adjudicated provided valuable information in regard to the amount of cases that were heard over the course of five years. The mean case load for high formality institutions was 36.77 cases per year over a five year period, medium formality institutions had a mean case load of 19.2 cases per year over a five year period, and low formality institutions had a case load of 25.40 cases per year over a five year period. A one-way ANOVA indicated no significant difference ($p=.121$) between the total case adjudicated by institutions that were classified as low, medium, or high formality.

Institutions responding to total appeals filed between groups also provided valuable information in regards to the amount of appeals filed over a five year period. The mean for high formality institutions was .920 appeals per year over a five year period. The mean for medium formality institutions was .733 appeals per year over a five year period and 13.88 appeals were seen per year over a five year period for low formality institutions. A one-way ANOVA was conducted indicated no statistically significant difference ($p=.155$) between the three levels of formality.

Total appeals revised between groups focused on the amount of appeals revised by way of an overturned decision by an appeals committee over a five year period. The mean for high formality institutions was .040 appeals revised per year over a five year period. The mean for medium formality institutions was .000 appeals revised per year over a five year period and 4.33 appeals revised per year over a five year period for low formality institutions. A one-way ANOVA was conducted indicated no statistically significant difference ($p=.235$) between the three levels of formality.

Total repeat offenders between groups focused on the number of repeat offenders in the course of a school year over a five year period. The mean for high formality institutions was 1.44 over a five a year period while the mean for medium and low formality institutions was .000 and 1.26 repeat offenders respectfully. A one-way ANOVA was conducted and indicated no statistically significant difference ($p=.425$) between the three levels of formality.

Total lawsuits filed between groups focused on the number of lawsuits filed against an institution as a result of a disciplinary decision over a five year period. The mean for low formality group was .008 while no lawsuits were filed at medium and high formality institutions over a five year period. A one-way ANOVA was conducted and indicated no statistically significant difference ($p=.376$) between the three levels of formality.

Six supplementary questions were also used to complement the two major research questions. Results from those supplementary questions are listed below.

The first question asked what types of judicial procedures are being practiced by Mississippi Community Colleges. The results of the survey indicated that of the 11

schools that responded to the survey, 3 (27%) of those schools were low formality, 3 (27%) were medium formality and 5 (45%) were high formality institutions. Of those schools, the low formality institutions had the highest mean score of adjudicated cases (65.73) over a five year period, followed by the high formality institutions (25.40) cases adjudicated, and medium formality institutions with (19.20) adjudicate cases.

The second question asked what type of judicial procedures yield the highest rate of appeals among violators. The results of the survey indicated that low formality institutions had a higher number of average appeals per year than either medium or high formality institutions. A one-way ANOVA ($p=.423$) indicated no significant difference among the three types of judicial procedures in respect to the rate of appeals among violators.

The third supplementary question asked which type of judicial procedures that institutions use has the most sanctions overturned as a result of an appeal. The results of the survey indicated that low formality institutions had a higher number of sanctions overturned as a result of appeal in respect to medium or high formality institutions. A one-way ANOVA ($p=.411$) indicated no significant difference among the three institutions.

The fourth supplementary question looked at recidivism rate among the various judicial procedures practice at Mississippi Community Colleges. The number of repeat offender per year was compared to the number of cases adjudicated per year was used to determine the rate of recidivism. The results of the survey indicated that high formality institutions had a higher recidivism rate than that of the medium or low formality institutions. A one-way ANOVA indicated no significant difference ($p= .235$) among

high formality, medium formality and low formality institutions in respect to the recidivism rate.

The fifth supplementary question looked at which system was more prone to litigation as a result of the judicial process. It was found that the low formality institution was more prone to be litigated than high or medium formality institutions. A one-way ANOVA indicated no significant difference ($p=.985$) among high formality, medium formality and low formality institutions in respect to litigation as a result of the judicial process.

The last supplementary question asked about the processes and procedures that are common across the types of judicial procedures. It was found that low, medium and high formality institutions shared commonalities in a variety of areas but were consistent with the characteristics of their respective groups. In the question of the use of fines for disciplinary sanctions the results indicated that 100% of the responding institutions indicated the more formal answer of the use of fines as a disciplinary sanction instead of the less formal answer. Another question looked at whether attorneys representing students in judicial hearing could actively represent their clients in that hearing. The results indicated that 100 % of the high and low formality institutions selected the less formal answer of not allowing attorneys to actively participate in a judicial hearing than the more formal answer of allowing attorneys to participate.

Overall, low formality institutions were consistent with their use of informal means to adjudicate students. The use of terms such as responsible/not responsible (outcome of the judicial process), alleged violator (name given to the accused), committee (name of the hearing body), sanctions (actions taken by the institution against

a student) and members (name of individuals who serve on the hearing body) were all terms that were expected from institutions that were low in formality. This was also found to be true as it relates to process. Low formality institutions were apt not to utilize faculty prosecutors, not allow the use of student prosecutors or utilize subpoenas, which was indicative of a low formality judicial process. Last, as it relates to procedure, it was found that low formality institutions selected the less formal term of *by preponderance* than the more formal term of *beyond a reasonable doubt* in respect to the burden of proof. This was also evident in the appropriate attire of the members of the judicial board. It was discovered that of the low formal institutions 33% of the respondents selected formal attire and 66% selected the less formal term of casual attire as the appropriate apparel for a judicial review.

Medium formality institutions responses to survey indicated similarities of both the low and high formality institution responses. Terminology used by medium formality institutions were: guilty/not guilty (response for outcome of the disciplinary process), alleged violator and accused (name given to the accused), committee and board (name given to the hearing body), hearing (name given to the disciplinary hearing), members (name given to the members who serve on the hearing board) and sanctions/punishes (actions that are taken by the institution against a student who has violated the Code of Conduct). Medium formality institution also had split tendencies as it relates to process. It was found that medium formality institutions had formal answers on the use of fines as a sanction (100%) and on allowing counsel to be permitted at a judicial hearing (66%). It was also found that these same institutions had informal responses on not allowing the

use of faculty and student prosecutors to represent students (100%) and not allowing counsel to actively participate in a judicial hearing (66%).

High formality institutions responses were consistent with that of an institution with a highly legalistic judicial process that mirrored the criminal justice system. High formality institutions used the following legalistic terms in it judicial procedures: guilty/not guilty (outcome of the judicial process) defendant (name given to the accused), and hearing (name of the judicial procedure). As it relates to process, high formality institutions selected the more formal answer than the less formal answers. In the use of fines as a sanction it was discovered that 100% of the high formality institutions selected that they allowed disciplinary fines. It was also found that 100% of the high formality institutions selected the more formal answer of allowing legal counsel to be present at a disciplinary hearing. Eighty-percent (80%) of high formality institutions allowed subpoenas for witnesses. The procedures used by high formality institutions judicial were also consistent with that of a highly legalistic judicial system. Sixty-percent (60%) of the high formality institutions selected “clear and convincing” as the answer to the burden of proof required for a judicial hearing while only 40 % selected the less formal answer of “by preponderance”. Finally, high formality institutions were somewhat less formal in requirements for attire for its judicial members. Eighty-percent (80%) of the high formality institutions selected the less formal term of casual attire for judicial members while 20% of the high formality institutions selected the more formal term of formal dress.

Conclusions

Nicklin (2000) reported in *The Chronicles of Higher Education* that arrests on college campuses have significantly increased, especially in the areas of alcohol and drugs. Nicklin (2000) further suggested there have also been increases in the number of murders, sex offenses, hate crimes, and assaults on college campuses. The sheer number of infractions brought to judicial officers is overwhelming. These increases of violent crimes along with the record number of students being diagnosed with mental disorders require college administrators to revisit their current judicial procedures.

This study was based on two research questions that focused on the classification and assessment of the effectiveness of judicial procedures at Mississippi's Junior and Community College and whether a particular type of judicial procedure was more effective in the adjudication of students. It was discovered that there was no statistically significant difference among judicial procedures that were classified as low formality, medium formality, or high formality when comparing their terminology, process, and characteristics. It was also discovered that low formality institutions use of these indicators was consistent with that of procedures that were less formal and more student development oriented. High formality institutions were also consistent in their responses to these same indicators. It was discovered that high formality institutions responses were clearly formal and legalistic and mirrored the criminal justice system.

Judicial effectiveness was a vital part of this study. Section IV titled "Outcomes" required institutions to provide statistical data about the amount of cases adjudicated, the amount of appeals filed, total appeals revised, total repeat offenders and lawsuits filed. Low formality institutions were found to adjudicate more cases per year, have more

appeals filed, more lawsuits filed, and have more appeals revised than both the high formality and medium formality institutions. Institutions that were classified as high formality were found to have the most repeat offenders and the highest recidivism rate. Medium formality institutions had the least amount of adjudicated cases and had the least amount of appeals filed in a course of year. Medium formality institutions also had the lowest rate of appeals. A one-way ANOVA amongst all of the outcomes indicated no statistical difference.

The results of this study imply that Mississippi community and junior colleges are very diverse in their practices of judicial procedures. Classification of these institutions judicial procedures revealed that low formality, medium formality, and high formality all have significant strengths. These strengths should be built upon by each institution and a new paradigm that consists of assessment and evaluation should be implemented to assure that needs of the college community are being met. A combination of all three judicial procedures should be cultivated to forge new procedures to deal with the challenging millennial generation. Teamwork and sharing of ideas is the key to success in this ever-changing world of judicial affairs.

Recommendations

During the process of this research there were several items of concern that should be the subject of further studies in the area of judicial affairs effectiveness. These recommendations will hopefully assist individuals who intend to duplicate or build on this study.

The first area of concern was identifying the individuals who serve as the chairperson of the judicial process at the respective schools. It was discovered that

several schools had chairpersons who worked in other areas outside of student services, such as classroom instructors. Since most schools in the state were not members of The Association of Student Judicial Affairs (ASJA), it was a hit or miss situation. A future study should focus on streamlining the identification process of judicial affairs professionals which could improve the survey response rate.

The second area of concern was the length of the survey instruments. It was discovered that most of the respondents were concerned about the length of the survey and the amount of information that was required. It was stressed to the respondents that all the information requested was necessary for the purpose of this research. However, a further study should revisit the survey questions.

The last area of concern was the need for focus group interviews with judicial affairs practitioners after their institutions have been classified. Qualitative data would reveal enormous amounts of information about opinions and experiences of these judicial affairs professionals and the procedures that are being practiced at their respective institutions.

Finally, it is recommended that institutions should focus their attention on evaluation and assessment of their judicial procedures. Effectiveness, while important, is only good during the time period of evaluation. It is vital that institutions put a more valiant effort into improving their judicial procedures. It is critical to involve the student body in this process. Students have a wealth of knowledge on what does and does not work. A combination of student involvement, education, assessment, and evaluation will assist in the creation of judicial procedure that will meet the need of any institution.

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APPENDIX A
LEGAL CITATIONS

Legal Citations

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APPENDIX B

FIRST LETTER TO JUDICIAL AFFAIRS PROFESSIONALS

August 21, 2008

Name
Title
College Name
Address
City/State/Zip Code

Dear Colleague,

Judicial Affairs officers have unique challenges facing them as they attempt to effectively respond to disruptive behaviors by students. For my doctoral dissertation research at Mississippi State University under the direction of Dr. Arthur D Stumpf, I am conducting a survey of Mississippi Community Colleges regarding classification and assessment of campus judicial procedures. The findings of this research will serve to clarify and assist Judicial Affairs professionals as they refine discipline and judicial procedures at their respective colleges. The results of this research will be available to your institution and other interested groups.

The instrument was pilot tested at the 1996 ASJA Conference in Florida and I have revised it in order to make it possible for me to obtain all necessary data while requiring a minimum amount of your time. The information has been coded to insure the confidentiality of the respondents. The average time required for administrators trying out the survey was twenty minutes.

I will appreciate it if you will complete the enclosed form prior to September 1, 2008 and return it in the stamped, self addressed enveloped enclosed. I welcome any comments that you may have concerning this study. Your responses will be held in strictest confidence.

I value your feedback on the impact of my dissertation and thank you for filling out this brief survey. I will provide the summary of this survey's results if you desire. If you have any questions about this survey or the interview, please contact me at (662) 246-6442 or er2@msstate.edu. Thank you in advance for your willingness and cooperation.

Sincerely,
Edward Rice II
Doctoral Student

APPENDIX C

FIRST LETTER TO JUDICIAL AFFAIRS PROFESSIONALS

September 10, 2008

Name
Title
College Name
Address
City/State/Zip Code

Dear Colleague,

Recently, I distributed a survey through Surveymonky.com requesting your assistance for my doctoral dissertation research at Mississippi State University that attempts to assess the effectiveness of campus judicial systems. This email serves as a follow up to that mailing. The findings of this research will serve to clarify and inform Student Affairs professionals as they continue to refine discipline/judicial processes. The results of this research will be available to your institution and other interested groups.

In order for me to acquire representative data, I am asking you to complete the following demographical section of the attached survey at your earliest convenience. It is very important that the data in this section is completed.

Please complete and return the attached survey by fax (662-246-6491) by September 17, 2008.

If you have any questions, please do not hesitate to email me at **Error! Hyperlink reference not valid.** or call me at 662-246-6442.

Sincerely,

Edward Rice II
Vice-President of Student Services

APPENDIX D
SURVEY INSTRUMENT

Characteristics of Campus Judicial Systems

Please respond to the following questions as they relate to the Code of Conduct that currently exists within your institution. Select one response for each statement.

Part I. Terminology

1. The outcome of your disciplinary process is _____.
 convicted/acquitted guilty/not guilty in violation/not in violation responsible/not responsible
{ }
2. The name is given to the person who is accused _____.
 defendant respondent accused alleged violator
3. A student alleged to be in violation of the code of conduct is _____.
 indicted charged accused in violation
4. The hearing body is referred to as a _____.
 court tribunal board committee
5. The disciplinary review is referred to as a _____.
 trial hearing meeting
6. Those individuals who serve on the hearing board are referred to as _____.
 justices peers members
7. The hearing body _____ an alleged violator.
 sentences punishes sanctions
8. The person initiating a referral is the _____.
 plaintiff accuser complainant/victim
9. The violator's representative or companion (one who accompanies the alleged violator during the hearing) is referred to as _____.
 counsel advocate advisor
10. An institution's representative acting on behalf of the victim is referred to as the _____.
 prosecutor/plaintiff accuser complainant

Part II. Process

Please indicate "yes" or "no" to the following questions/statements as they describe the current process which exists at your institution.

- | | Yes | No |
|---|--------------------------|--------------------------|
| 1. Do you utilize "fines" as a sanction in disciplinary matters? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you utilize faculty "prosecutors"? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Do you utilize student "prosecutors"? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Does your institution utilize subpoenas | | |
| a. parties (the accused)? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. witnesses? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Is legal counsel permitted at the hearing? | <input type="checkbox"/> | <input type="checkbox"/> |
| a. If so, do they actively represent the student? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Does your office actively investigate allegations? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Does your office provide alternative dispute resolution? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Is alternative dispute resolution available elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Does your code allow for the exclusion of any evidence during a hearing? | <input type="checkbox"/> | <input type="checkbox"/> |

Part III. Characteristics

Please respond to the following questions as they describe your disciplinary process:

1. What burden of proof is required to determine responsibility?
 beyond a reasonable doubt clear and convincing by preponderance
2. What sanctions are employed by your institution (check all that applies)?
 - Fines
 - Restitutions
 - Probation (conduct/disciplinary)
 - Educational
 - Expulsion
 - Suspension
 - Community service
3. Your highest judicial board is composed of
 students faculty/staff both

4. Your lowest judicial board is composed of
 students faculty/staff both

5. What is the appropriate attire for judicial members during a review?
 robes formal (no jeans, shorts or t-shirts) casual

6. What is the name of the office that supervises the judicial process?

7. What is the name given to your student code of conduct or judicial procedures?

The data provided in Part IV is essential to the completion of this research and for the purposes of this study, related directly to assessing the effectiveness of campus judicial systems. It would be appreciated if you take the time to complete this section in its entirety and as accurately as possible. Data should be recorded as whole numbers and should not be shown as percentages. Data may be provided only for those years in which records were kept within your system. If data is not available for any of the academic years, please indicate that by checking the box below.

Data is not available for any of the years requested. (If this box is checked, skip to Part V Demographics).

Part IV. Outcomes

Please provide the appropriate date in the blanks provided for each of the academic years listed. If data is not available, please indicate this by placing an "X" in the blank. If no instances occurred, please place a "0" in the blank.

1. How many total cases have been handled or resolved (either formally or informally at your institution?)

2005-2006 2004-2005 2003-2004 2002-2003 2001-2002

2. How many appeals have been filed, if any, as a direct result of disciplinary action taken by your office? (An appeal should be counted one time only. An appeal taken to various levels should be considered only once.)

2005-2006 2004-2005 2003-2004 2002-2003 2001-2002

3. How many of those appeals resulted in a revised sanction?

2005-2006 2004-2005 2003-2004 2002-2003 2001-2002

4. How many repeat offenders, if any, did your office see (This may not necessarily be the same violation).

2005-2006 2004-2005 2003-2004 2002-2003 2001-2002

5. How many lawsuits, if any were filed against your office as a direct result of disciplinary decisions or procedures?

2005-2006 2004-2005 2003-2004 2002-2003 2001-2002

Part V. Institution Demographics

1. Residential Commuter
2. Enrollment
 0-2,499 2,500-4,999 5,000-7,499 7,500-9,999 Over 10,000
3. Educational level of Chief Judicial's Officer
 Bachelor's Master's Doctorate Juris Doctorate
4. The Chief Judicial Affairs officer is a _____ position.
 Full-Time Part-Time
5. Age of Chief Judicial Affairs Officer.
 25-34 35-44 45-54 55-64 Over 65
6. Please indicate in the space provided the number of people, other than the person in #4 above, who work in the judicial affairs office.
 Full-Time Graduate Assistants
 Part-Time Support/Secretarial
7. How often does your college evaluate its judicial procedures?
 Every year Every three years Every Five Years
 Every two years Every four years N/A
8. Does your college use CAS Assessment Tools to evaluate its judicial procedure?
 Yes No

APPENDIX E
LIST OF SCHOOLS

List of Schools

Coahoma Community College
Co-Lin Community College
East Central Community College
East Mississippi Community College
Gulf Coast Community College
Hinds Community College
Holmes Community College
Itawamba Community College
Jones Junior College
Meridian Community College
Mississippi Delta Community College
Northeast Community College
Northwest Community College
Pearl River Community College
Southwest Community College