



The Judicialization of Student Conduct Administration and its Impacts on Practitioners

INTRODUCTION

Increasing public scrutiny, federal regulation, and threat of litigation have created a climate of fear and mistrust among college student conduct administrators. This phenomenon of “judicialization” - “the spread of legal discourse” (Hirschl, 2008) and the reliance on legalistic systems to determine campus disciplinary outcomes (Sweet, 2002) - treats the adjudication of student misconduct as a quasi-judicial process. This study examines the critogenic (“law-caused;” Gutheil et al., 2000) harms experienced by student conduct practitioners and applies research on physicians’ litigation/ malpractice stress to determine evidence-based approaches to relieving the negative effects of judicialization.

LITERATURE REVIEW

FEDERAL LEGISLATION & GUIDANCE	Clery Act Title IX Dear Colleague Letter(s)	GI Bill FERPA VAWA
DUE PROCESS IN DISCIPLINARY HEARINGS	<i>Dixon v. Alabama State Board of Education</i> (1961) <i>Jaksa v. Regents of University of Michigan</i> (1984) <i>Holert v. University of Chicago</i> (1990)	
A STUDENT’S RIGHT TO COUNSEL	N.C. G.S. § 116-40.11 (2013) <i>Wasson v. Trowbridge</i> (1969) <i>Osteen v. Henley</i> (1993) <i>Gabrilowitz v. Newman</i> (1978) <i>French v. Bashful</i> (1969) VAWA Reauthorization (1993)	
CONCERNS ABOUT LITIGATION AND MMSS	Defensive practice of medicine Emotional symptoms: anger, depression, irritability, insomnia, fatigue Reduced productivity, increased sick leave, job dissatisfaction	

METHODS

- 40-question instrument derived from Brodsky and Cramer’s *Concerns About Litigation Survey* (2008) plus demographic information
- 12 interviews with survey respondents who self-identified as interested in further participation
- Full-day pre-conference workshop for student conduct professionals on “Demystifying Student Lawsuits, Litigation Stress, and Public Scrutiny”

RESULTS

Highest Mean Scores from Questions on Subscale B

5 = Strongly agree; 4 = Somewhat agree; 3 = Neither agree nor disagree; 2 = Somewhat disagree; 1 = Strongly disagree

Q22	4.50	Q23	4.17
Q21	4.26	Q24	4.14
Q20	4.22	Q28	4.13

Paired Samples Test - Subscales A and C

t	Sig. (2-tailed)	Mean	Std. Dev.	Std. Error Mean	95% Confidence Interval	
					Lower	Upper
-4.606	.000	-.13	0.54	0.03	-.18806	-.07551

Independent Samples Test - Males and Females

	t	Sig. (2-tailed)	Mean Diff.	Std. Error Diff.	95% Confidence Interval	
					Lower	Upper
Scale A	1.227	.221	.07	.063	-.047	.20
Scale C	3.246	.001	.25	.078	.10	.41
Full Survey	2.521	.012	.13	.054	.03	.24

Independent Samples Test - Involved in Lawsuit/Not Involved

	t	Sig. (2-tailed)	Mean Diff.	Std. Error Diff.	95% Confidence Interval	
					Lower	Upper
Scale A	3.775	.000	.23	.061	.11	.35
Scale C	3.647	.000	.28	.077	.13	.43
Full Survey	4.037	.000	.21	.052	.11	.31

Independent Samples Test - Office Adjudicates TIX/Does Not

	t	Sig. (2-tailed)	Mean Diff.	Std. Error Diff.	95% Confidence Interval	
					Lower	Upper
Scale A	-3.416	.001	-.22	.06	-.34	-.09
Scale C	-4.156	.000	-.33	.08	-.48	-.17
Full Survey	-4.288	.000	-.23	.05	-.34	-.12

RESULTS (continued)

It is not uncommon for an attorney to bypass me and my director, both women, to ask questions of the vice chancellor, a male.

The threat of [the active litigation] we were under when I started this job still looms as a large force in our conduct adjudication today.

You can't have a real conversation with a student with an attorney sitting there.

I'm very open with the fact that I go to therapy twice a month.

Sometimes you spend a whole day thinking about people being hurt in very intimate ways and you come home and you don't want to be touched.

Our general counsel has questioned or changed sanctions because they're worried about a lawsuit from the respondent.

FINDINGS THUS FAR

- Like physicians, student conduct administrators who have already been involved in lawsuits are more stressed by litigation threat than those who haven't.
- Student conduct administrators report physical/emotional symptoms and personal impacts from judicialization similar to physicians' experience of Clinical Judicial Syndrome.

REFERENCES

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