STUDENT LEGAL ISSUES CONFRONTING METROPOLITAN INSTITUTIONS OF HIGHER EDUCATION

DISSERTATION

Presented to the Graduate Council of the University of North Texas in Partial Fulfillment of the Requirements

for the Degree of

DOCTOR OF EDUCATION

By

Russell K. Elleven, B.A., M.T.S.

Denton, Texas

December, 1996
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This study examined perceptions of student legal issues confronting metropolitan institutions of higher education. The data for the study were collected using a modified version of Bishop’s (1993) legal survey.

The sample for the study consisted of 44 chief student affairs officers and 44 chief legal affairs officers employed with the 44 institutions affiliated with the Coalition of Urban and Metropolitan Universities. Frequency counts and percentage distributions were employed to analyze the data.

Chief student affairs officers and chief legal affairs officers have very different perception as to the most likely student legal issues to be litigated in the next ten years. Chief student affairs officers found few student legal issues highly likely to be litigated in the next 10 years. Affirmative action, sex/age discrimination, fraternities and sororities, and disabled students were the only student legal issues at least 20 percent of chief student affairs officers believed to be highly likely of litigation in the next ten years.

Chief legal affairs officers believed many student legal issues would be litigated in the next 10 years. At least 20 percent of the chief legal affairs officers believed admission criteria, affirmative action, reverse discrimination, sex/age discrimination, athletic tort liability, Title IX, defaulting student loans, defamation, negligence, academic dismissals,
academic dishonesty, cyberspace issues, and disabled students to be highly likely of litigation in the next ten years.

Chief student affairs officers and chief legal affairs officers prepare very similarly for future student legal issues they may confront in the future. There is a large amount of crossover between professional conferences of chief student affairs officers and chief legal affairs officers. Student affairs and legal affairs officers will attend professional conferences of both groups in order to stay abreast of student legal issues.

It appears chief student affairs officers are not prepared to confront many of the student legal issues highly likely to be litigated in the next ten years.
ACKNOWLEDGMENTS

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CHAPTER 1

INTRODUCTION

Legal issues is an area of higher education that is complex, and knowledge of what they are is necessary in order to be successful in college and university administration (Kaplin & Lee, 1995). Student affairs administrators need a basic understanding of the law and how it affects their relationships with students (Gehring, 1991; Barr, 1988). Students, however, are changing. In many institutions of higher education the student is no longer "typical" but has come to be known as "nontraditional."

Nowhere is the student population more recognizably diverse than in institutions in metropolitan areas (Grobman, 1988). It is in these metropolitan universities, writes Barnett and Phares (1995), that the needs of many of America's older, less affluent, largely minority, commuter students are being served. Each of these populations has special needs with regard to instruction and services (Coles, 1995; Cross, 1981; Jacoby, 1995; Schlossberg, Lynch & Chickering, 1989;).

It is possible that, given the student characteristics listed above, an increase in litigation directed against institutions of higher education will occur. Gehring (1991) states, "With the average age of students increasing, a lowered age of majority, and economically hard times, the amount of litigation brought against administrators and institutions will continue to increase" (p. 406). This is compounded in that almost all
decisions made by student affairs administrators have legal implications (Barr, 1991).

Legal issues, as related to student affairs administration, are of great concern in all institutions of higher education. It is particularly the case that these issues are of importance to administrators in metropolitan institutions. The metropolitan university is a "new breed of American university" states Lynton (1995, p. xi). The metropolitan university is beginning to find a voice in the wide array of institutional types vying to be heard. Concurrently, these institutions must continue to examine the needs of society and ascertain the roles they should seek to play (Lynton & Elman, 1987).

Statement of the Problem

The problem addressed by this study was to identify and characterize areas of legal issues likely to confront American metropolitan institutions of higher education in the next ten years.

Purposes of the Study

The primary purpose of the study was to identify future legal issues to be confronted by metropolitan universities as perceived by the chief student affairs officers and chief legal affairs officers employed in these institutions. The study also identified future legal issues related to students in the areas of admissions, athletics, financial aid, tort liability, student organizations, academic affairs, tuition, student housing, and miscellaneous issues. Third, the study examined the methods by which chief student affairs officers and chief legal affairs officers prepare for future student legal issues most likely to be litigated in the next ten years.
Research Questions

Three research questions were identified to accomplish the purposes of this study. They were:

1. What student legal issues will confront America's metropolitan institutions of higher education in the next ten years as perceived by the chief student affairs officers of these institutions?

2. What student legal issues will confront America's metropolitan institutions of higher education in the next ten years as perceived by the chief legal affairs officers of these institutions?

3. What are chief student affairs officers and chief legal affairs officers currently doing to prepare for dealing with legal issues they will confront in the next 10 years?

Significance of the Study

This study focused on emerging student legal issues facing metropolitan institutions in the next ten years as perceived by chief student affairs officers and chief legal affairs officers. The literature suggests that metropolitan institutions of higher education will have special needs when serving their faculty, staff, students, and surrounding community (Johnson & Bell, 1995, p. vii.).

As metropolitan universities continue to define themselves it is imperative to look at many issues (Lynton & Elman, 1987). Legal issues is but one area that must be studied. Sound administration will be important as these institutions stretch their resources in an
attempt to provide many services to the students (Coles, 1995). The knowledge of current
and emerging legal issues in student affairs will continue to be an important topic.

Definition of Terms

The following terms were defined for this study:

Chief Legal Affairs Officer referred to the organizational head of the division that
oversees the legal aspects of an institution of higher education.

Chief Student Affairs Officer referred to the organizational head of the student
affairs division of an institution of higher education.

Metropolitan Institution referred to an institution of higher education that self-
identifies itself as metropolitan through membership in the Coalition of Urban and
Metropolitan Universities (CUMU).

Student Legal Issues referred to legal issues (as defined by Bishop, 1993)
involving university students that may prove to be litigious for metropolitan institutions of
higher education.

Urban Institution was used interchangeably with metropolitan institution.

Delimitations

The delimitations of this study were identified as the following:

1. The Chief Legal Affairs Officers were limited to university counsels
employed in metropolitan institutions identified by the Coalition of Urban and
Metropolitan Universities Membership (Appendix C).
2. The Chief Student Affairs Officers were limited to university student affairs officers employed in metropolitan institutions identified by the Coalition of Urban and Metropolitan Universities Membership (Appendix C).

3. Measurement of emerging student legal issues was limited to scores obtained from a modified version of Bishop’s (1993) Legal Survey.

Limitations

The following limitations may have had an impact on the study:

1. The response rates of chief student affairs officers and chief legal affairs officers to the questionnaire.

2. Possible bias of response from chief student affairs officers and chief legal affairs officers. For instance, administrators might have resisted admitting they were not completely current on student legal issues.

3. The study was subject to all the limitations of survey research using a mailed questionnaire.

Summary

This study examined the student legal issues affecting metropolitan institutions of higher education as perceived by chief student affairs officers and chief legal affairs officers employed at these institutions. A modified version of Bishop’s (1993) Legal Survey was used to obtain the data. Student legal issues are a concern to most colleges and universities. As metropolitan universities continue to define their role in higher education, legal issues are one area which administrators must be aware in order to be effective.
The purposes of this study were (a) to determine student legal issues metropolitan universities will confront in the future, (b) identify future legal issues related to students in the areas of admissions, athletics, financial aid, tort liability, student organizations, academic affairs, tuition, student housing, and (c) to determine the methods of preparation for future student legal issues among the subgroups of chief student affairs officers and chief legal affairs officers.
CHAPTER II

REVIEW OF THE LITERATURE

Introduction

The review of the literature includes four areas. First, the metropolitan or urban university as a unique genre of institution of higher education is examined. Second, students involved in higher education at metropolitan institutions are discussed. Third, student legal issues most commonly confronting institutions of higher education in general are cited for discussion. Finally, relevant court cases are discussed.

The Metropolitan University

Metropolitan universities must respond to a wide variety of external and internal constituencies (Thompson, Burton & Berrey, 1994). Historically, institutions have hesitated in identifying themselves as urban or metropolitan institutions because of the belief that this was equated with inferiority (Spaights, Dixon & Nickolai, 1985). However, institutions of higher education located in our cities and metropolitan regions are beginning to redefine themselves (Lynton & Elman, 1987).

Kinnick and Ricks (1990) conducted a study which indicated that metropolitan institutions of higher education are indeed different from other genres of colleges and universities. Urban institutions serve disproportionately more part-time students, and part-time enrollment growth exceed national averages. These universities also have
substantially lower tuition and fees. Graduate enrollments are also significantly higher than the national average.

Another study, conducted by Dluhy and Maidique (1993), examined 15 metropolitan regions. The study suggested that institutions of higher education in these areas differ with regard to access to education, variety of education offered, and quality of education received. To measure access the researchers measured the enrollment figures for all institutions in the area. The institutions with higher proportions of the population enrolled scored higher in the study. Variety was measured by the number of institutions in the area. More institutions inferred more educational choices for students. Quality was measured by the rankings of institutions in the *U.S. News and World Report*, the Carnegie Foundation, or *Barron’s Guide to the Most Prestigious Colleges*. Regions with higher numbers of institutions named in these publications scored higher in the study.

Three primary areas of concern can be identified in the literature (Johnson & Bell, 1995) concerning institutions of higher education that self-identify as metropolitan and consequently hold membership in the Coalition of Urban and Metropolitan Universities (CUMU). These three areas of concern to metropolitan universities are: 1) community outreach to the metropolitan regions in which the institutions are located, 2) students attending the institutions, and 3) the faculty who are teaching, conducting research, and providing professional service to the institutions and the larger academic world. This section examines community outreach and the faculty. Students who attend metropolitan institutions are investigated in the following section.
Community outreach

According to Grobman (1988), one of the essential elements of a metropolitan institution of higher education is concern for the surrounding community. Metropolitan institutions of higher education must be involved in, and be perceived as contributors to, the larger communities. Metropolitan universities can ill afford to be likened to a lonely ivory tower. In fact, it has been stated (Legg, 1994, p. 92) that, “The growing success of urban universities is tied to their increasing ability to integrate service and outreach into their mission.”

Vasse, Wilson, and Stephenson (1983) believe the community should be involved at every stage of institutional planning because the urban institution should have a symbiotic relationship with the community. Other research has concluded that the urban university should have a high level of involvement yet retain the traditional roles of teaching and research (Adamany, 1992; Pang, 1993).

One study (Mickelson & Sperry, 1984) found that the more involved the institution was in the community, the more the community was involved in the university. This type of institution involved in the region was able to enroll more area high school students and was beginning to see increased enrollments among minority students. The institutions must often be willing to provide study skills development to these students (Pang, 1993).

Faculty

The roles and expectations of faculty involved in metropolitan universities are expanding (Lynton & Elman, 1987). It is possible that scholarship and knowledge need to
be redefined in order to fit into the expanding responsibilities of professors at these institutions (Lynton, 1995). Teaching more classes and community outreach will certainly affect these professors.

Cook, Kinnetz, and Owens-Misner (1990) conducted a study that suggests faculty members at metropolitan institutions place greater importance on the teaching component of their positions than on research. At the same time, the faculty believed the institutions place greater value on the research component when promotion and tenure decisions were made. The faculty desired more sabbaticals, merit pay increases, funding for course development, and travel for lectures, seminars, and workshops on teaching.

Matier (1991) believes it is difficult to recruit faculty to metropolitan institutions. His study indicated that faculty respond more to what he termed “intangible” benefits. These benefits include the reputation of the institution, the prestige associated with the university, and research opportunities. These intangible benefits may preclude metropolitan universities from recruiting the best and brightest faculty.

Conversely, Grobman (1988) indicates several advantages to being a professor in the metropolitan environment. Some of these include the ability of a spouse or significant other to more easily find work at another institution of higher education or the private sector, the great diversity of human resources available ranging from the symphony to outstanding attorneys, and opportunities for advancement are greater because metropolitan institutions are generally newer with fewer tenured faculty.
In the future, faculty at metropolitan universities will have greater responsibilities to the institution and the wider community. Given this circumstance, it is imperative that administrators compensate the faculty in different ways. For example, Haaland, Wylie, and DiBasio (1995) write:

To enhance all of the scholarly functions of the university and respond effectively to the challenges that the twenty-first century will surely bring, we must find institutional ways to permit faculty more flexibility in their careers, to assist in sustaining their professional vitality, and to ensure that they are not locked into the same narrow pattern of scholarship for their entire professional lives (p. 108).

Students Attending Metropolitan Universities

Metropolitan institutions of higher education serve the educational needs of students who are older, less affluent, largely minority, commuting student body (Barnett & Phares, 1995). These institutions must continue to educate traditional students while adapting to the needs of non-traditional students (Grobman, 1988). These students may have less than adequate preparation for college academics (Fox, 1986), have high anxiety with regard to technology (Bracey, 1988), and may come to the institution believing they will not complete the degree (Metzner & Bean, 1987).

According to Pascarella, Duly, Miller, and Rasher (1981), students who do not persist to the second year of college are most often black, not involved in a fraternity, sorority, or other club, and expect, before enrolling, that they might drop out. Conversely,
the students persisting to the second year tend to be white, involved in an organization, and expect to transfer to another college.

Other research conducted by Arnold (1993) indicates that black women are at significantly higher risk of dropping out of metropolitan universities. Among factors contributing to these women dropping out are insufficient financial resources, heavy work loads, and unrelenting familial obligations and demands. A study conducted 10 years earlier (Avakian, MacKinney, and Allen, 1982) had found that it was the black male who was at highest risk of dropping out. Lichtman, Bass, and Ager (1989) found that students attending metropolitan institutions of higher education were all at risk of dropping out no matter the race or ethnicity. However, blacks did drop out at higher rates than whites. Most interestingly, the study found that blacks with higher academic achievement, as measured by the ACT scores and GPA, were significantly more likely to leave the institution.

Several studies (Jones, 1983; Lewis, 1986; Terenzini, 1994; Schurin, 1994) have been published concerning the needs of students attending metropolitan colleges and universities. Jones (1983) believes the institutions must ensure that academic programs offered students are relevant to the world in which the students live. These programs are generally made up of the helping professions such as teaching, social work, and other community service occupations.

According to Lewis (1986), six topics must be understood by black students in order for metropolitan universities to retain them. First, the students must be helped to
make the emotional transition to college. Second, the students must be helped to understand the requirements, rules, and regulations of the institution. Third, the students must be helped in making the social transition to college life. Fourth, the students must be helped to make the intellectual transition to college. Next, the students must be helped to set academic, career, and personal goals. Finally, the students must seek and find appropriate academic advising.

Faculty need to be more involved in retaining all students at metropolitan universities. The transitional needs of students are of utmost importance. Institutions should also be more receptive to the needs of their nontraditional populations (Terenzini, 1994).

Four ideas which could improve the retention of students in metropolitan environments include: 1) the introduction of students and faculty to the context of each others lives; 2) the preparation of the faculty much more extensively to understand how their students’ environments shape the student’s life; 3) the expansion of relationships between urban colleges and their primary “feeder” high schools, and 4) the review of the social science and humanities curricula with a specific eye to the strengths that students have gained in their environments (Schurin, 1994).

The main thrust of the literature regarding students at metropolitan institutions of higher education involves the risk of losing the students as dropouts and the attempts to prevent students from becoming dropouts. It appears that students graduating from metropolitan institutions have accomplished a great feat.
Student Legal Issues

The legal relationship between an institution of higher education and students continues to evolve. There is difficulty in viewing the student both as an adult with rights and privileges, and as a person the institution owes special duties during a vulnerable stage in life (Cole & Shiels, 1989). Many areas are affected in the arena of student legal issues.

Admissions

Kaplin and Lee (1995) have identified three areas of constraint for institutions of higher education in forming admissions policies:

1. The selection process must not be arbitrary or capricious;

2. The institution may be bound, under contract theory, to adhere to its published admissions standards and to honor its admissions decisions; and

3. The institution may not have admissions policies that unjustifiably discriminate on the basis of race, sex, disability, or citizenship. (p. 377).

Bishop (1993) identified the following four issues in his survey: 1) Admission criteria, 2) Affirmative action, 3) Reverse discrimination, 4) Sex/Age discrimination.

Affirmative action admissions policies are aggressively being pursued in the courts. Because of this, student diversity may be greatly threatened on college campus across the country (Garfield, 1996).

Athletics

Bishop (1993) identified two areas of concern with regard to athletic legal issues. These were the scholarships received by student athletes and tort liability concerning injuries resulting from participation in college athletic events.
Athletic scholarships are usually treated as contracts between students and the institutions by the courts. The second issue, tort liability for athletic injuries, concerns whether or not institutions are found negligent (Kaplin & Lee, 1995).

Mulderink (1995) believes Title IX to be a student legal issue which will be determined by the courts. Title IX requires institutions of higher education to give scholarships to women in a proportionate amount to men's athletics and that of the female student body. Most of the issues involving Title IX center around finances (Pieronek, 1994).

Financial aid

According to Kaplin and Lee (1995), principles of contract law may apply to financial awards which, once given, may constitute a contract. The legal principles with regard to gifts, grants, wills, and trusts may also apply. Four areas of concern in the arena of student financial aid are: 1) denial or termination of aid, 2) discrimination in award of aid, 3) veteran's benefits, and 4) linking financial aid to draft registration (Bishop, 1993).

Tort liability

Three areas of legal concern in the area of tort liability include defamation, negligence, and fraud (Bishop, 1993). Defamation is defined as "an intentional false communication either published or publicly spoken that injures another's reputation or good name" (Black's, 1991, p. 288).

Bickel and Lake have stated that, "an unsafe environment is not a learning environment" (1994, p. 293). Negligence suits are generally suits brought by students who
have been injured on the campus or while participating in a campus function. Negligence may be incurred by the institution if the institution “owed a duty to the injured party but failed to exercise due care to avoid the injury” according to Kaplin and Lee (1995, p. 103).

Olivas (1989) has identified types of fraud as plagiarism, academic dishonesty, or misrepresenting research data. Parrish (1994) suggests three steps to curtail these types of fraud. First, student conduct hearings should have an expert in the academic discipline present. Second, authorship’s guidelines must be established by the institution. Finally, institutions must keep better records.

**Student organizations**

Litigation in this area tends to reflect administrators’ fears that the organizations will not represent the institution well (Olivas, 1989). Kaplin and Lee (1995) believe that recognized student organizations could be seen as agents of the university. They believe this leads to concerns about contract and tort theory. Bishop (1993) has identified recognition of the organization and the organizational activities as legal concerns.

**Academic affairs**

According to Olivas (1989) there has been “no case in which a student sued successfully to change a grade given in a course” (p. 689). The institution must provide due process to the student in the area of academic affairs in accordance with the Fourteenth Amendment (Kaplin & Lee, 1995). Bishop (1993) identified three legal issues in this area: 1) Academic Standards; 2) Dismissals; and 3) Academic dishonesty.
Sexual relationships with faculty have also been litigated in the courts. Stokes and Vinik (1994) believe colleges and universities should strengthen sexual-harassment policies and educate students and faculty about harassment. Institutions of higher education should also adopt policies on consensual sexual relations between students and faculty members (Stokes and Vinik, 1994).

The university catalog as a contract between institution and student has often been litigated. Cherry and Geary (1992) assert that the courts appear to agree that the student-college relationship is contractual in nature and that the relevant contractual terms are set forth in catalogs.

**Tuition**

Bishop (1993) listed criteria to determine residency and annually increasing charges as issues of legal concern for higher education administrators. Olivas (1989) claims that students are engineering increasingly complex claims to residency.

**Student housing**

Colleges and universities requiring students to live in campus housing have been litigated many times (Kaplin & Lee, 1995). While Kaplin and Lee (1995) identify several areas of legal concern, Bishop’s (1993) survey limits this area to three issues: 1) required residence; 2) rules and contracts; 3) solicitation (vendors).

**Miscellaneous issues**

Bishop (1993) has identified six miscellaneous legal issues. These are legal issues which may have already seen litigation but which may constitute increasing legal action in the future. These issues include: 1) student disabilities; 2) AIDS; 3) alcohol liability;
4) defaulting student loans; 5) student newspapers; and 6) course content accountability.

Students with disabilities have brought litigation against institutions of higher education on numerous occasions. Much of this type of legal action concerns the student’s ability to perform the tasks of degree programs sufficiently (Bishop 1993). “However, the growing body of administrative and judicial decisions show that colleges need not change their admissions standards or the essential elements of their educational programs solely to accommodate students with disabilities” (Milani, p. 1043, 1996).

Acquired Immune Deficiency Syndrome (AIDS) is seen by Bishop (1993) to be an emerging legal issue. Legal redress may be sought by students who believe they are harassed or persecuted in some fashion because of the illness.

Alcohol consumed by students before, during, or after university events may pose legal problems for institutions of higher education. While this issue has been brought before the court on several occasions, Bishop (1993) believes it is possible legal issues involving students and alcohol may see increasing litigation. Students defaulting on loans accumulated for the purpose of attending higher education institutions was identified by Bishop (1993) as an emerging legal issue. Bankruptcy laws may be used in this type of court action.

Issues related to freedom of the press for student newspapers may also see increasing law suits in the future. The image of the university versus the rights of student’s freedom of expression may see increasing litigation in the future (Bishop 1993).

Finally, Bishop (1993) recognizes course content accountability as an emerging legal issue. This issue relates to students bringing suit against the university or a professor
because the course did not adhere to the course catalog description. Contract theory may play a role in this type of future litigation.

Court Cases

This section reviews examples of court cases in the areas of student legal issues under study. The summaries are brief but should offer some insight into each area of student legal issues under review.

Admissions

Brown v. Board of Education, (1954) was a landmark ruling declaring that no public institution could discriminate on the basis of race. “Separate But Equal” would no longer be tolerated. The case actually involved elementary and secondary schools. The case has, however, been applied to higher education institutions with regard to admissions.

In Hopwood v. State of Texas, (1996) the court ruled that admissions decisions could not be based on the race of an applicant. Heretofore the race of a minority applicant could be used as a factor in the admissions process.

In United States of America v. Commonwealth of Virginia, (1996) the Virginia Military Institute was taken to court because the institution only admitted men. Women were not afforded the same level of leadership education in the state. VMI was ordered to participate in the founding of a similar program at Mary Baldwin College, a women’s institution. The court later ruled that the program founded at Mary Baldwin College would not be of the same caliber as the VMI program. VMI was then ordered to admit women.
Athletics

In Blair v. Washington State University, (1987) women athletes and coaches brought suit alleging funding for the women’s athletics programs was discriminatory. The court found that funding for women’s athletic programs must be based on an equation that considers the percentage of female undergraduates. The court also ruled football could not be excluded from the equation.

In Cohen v. Brown University, (1993) the institution was required to reinstate the women’s gymnastics and volleyball teams. The university had disproportionately cut the budgets of women’s programs in comparison to the men’s programs.

In Kleinknecht v. Gettysburg College, (1993) a student participating in the practice of the college’s lacrosse team suffered a heart attack. The player died from the heart attack. The players parents sued the institution for not having an emergency plan for such instances. The court ruled that, because the student was participating in the college’s sponsored event a duty of care indeed existed.

Financial Aid

State of New York v. Coury, (1974) examined principles of contract law as it relates to financial aid. In this case a student had accepted aid on the condition that he work in a welfare agency for one year after graduation. When the student did not uphold the work related portion of the agreement, the state was awarded a refund of the scholarship money.
In Podberesky v. Kirwan, (1993) a Hispanic student brought suit against the University of Maryland at College Park. The student desired to be considered for a scholarship restricted to African-American students. The university was able to prove to the satisfaction of the court that the scholarship was an attempt to afford an immediate response to past discrimination. The decision was overturned in appeal.

Tort Liability

In Lombard v. Fireman’s Fund Insurance Co., (1974) a student slipped, fell, and injured her back as a result of the institution’s custodial staff leaving excess oil on the building floor. The institution was found negligent because of failure to exercise reasonable care. The case determined students to be “invitees” of the institution and therefore required reasonable care. Therefore the institution was required to maintain a higher duty of care.

Scarpelli v. Jones, (1981) examined the alleged defamation a professor of pathology at the University of Kansas Medical School. African-American students claimed Scarpelli used tougher standards to grade blacks than white students. Scarpelli sued for defamation. The court did not agree that Jones’ charges of Scarpelli were reckless or malicious and thus found for the defendant.

In Prairie View A&M University v. Thomas, (1984) the student brought charges against the university for negligence. Thomas had fallen into an excavation on campus and was seeking to recover damages. The court found the university had breached its duty of care because there were no warning signs or lights near the excavation.
Student Organizations

Healy v. James, (1972) examined recognition of student organizations on a college or university campus. In this case a college president did not grant recognition to a student organization believing the goals of the organization did not coincide with the mission of the institution. The U.S. Supreme Court ruled the college must recognize the organization if the students agreed to uphold campus policies.

In Alpha Tau Omega v. University of Pennsylvania, (1983) a woman alleged she had been raped by members of the fraternity at a party in the fraternity house. The university removed the fraternity. The fraternity appealed to the court because it believed the due process had not been followed. The court found in favor of the fraternity.

Brooks v. Stone, (1984) examined libel in a student run newspaper. The student newspaper on the campus of Medical College of Georgia was known for its lewd sense of humor. A nursing student of the college wrote an editorial asking others not to read the paper. The editors responded with a letter of their own in which Brooks felt she was called a “bitch” and that she was labeled “sexually promiscuous.” The court found the editors to be guilty of libel.

Student Housing

Prostrollo v. University of South Dakota, (1974) scrutinized the requirement of students to live in university-owned residence halls. Students believed the requirement was unconstitutional under the Fourteenth Amendment. The court ruled, however, that university housing was educationally beneficial for freshmen and sophomore students.
In *New Jersey v. T.L.O.*, (1985) the United States Supreme Court allowed for warrantless searches of public elementary and secondary school student’s person when reasonable suspicion exists. While the case is not in the arena of higher education, it is possible the case will have ramifications for colleges and universities.

**Academic Affairs**

In *Connelly v. University of Vermont*, (1965) a student sued the institution after being dismissed from medical school. The student had failed 25 percent of third-year courses. The court upheld the dismissal of the student. If the court had found the institution to be capricious or arbitrary in its action, the court would have re-instated the student.

In *Board of Curators of the University of Missouri v. Horowitz*, (1978) a medical student was dismissed from the institution. The student sued the institution claiming the institution was more academically strict with her because of her sex, religion, and physical appearance. The court upheld the dismissal of the student and affirmed that the institution had more than adequate due process.

Similarly in *Regents of the University of Michigan v. Ewing*, (1985) a student, whose academic record precluded him from retaking the National Board of Medical Examiners exam, brought suit against the institution for violating his property interest. The court deferred to the expertise of the medical school faculty in finding for the university.

*University of Houston v. Sabeti*, (1984) examined a student at the university that was appealing his permanent expulsion from the institution. The student was found to
have been cheating on exams in two separate instances. Sabeti claimed that his due process had been violated when his counsel, a law student, was not allowed to speak during the university hearing. The court found that Sabeti’s due process had not been violated.

**Tuition**

*Starns v. Malkerson, (1970)* examined the criteria used to determine residency. The students bringing suit alleged that waiting one year to gain residency affected their right to interstate travel. The court found that the one-year waiting period did not affect the student’s constitutional right to travel.

**Miscellaneous Student Legal Issues**

In *Bradshaw v. Rawlings, (1979)* the court decided that the institution did not have a legal duty of care to a student that had been injured after a class picnic. The student had attended the annual event, become inebriated, and was driven from the picnic by another inebriated student.

In *Doherty v. Southern College of Optometry, (1988)* the court made the delineation between “reasonable accommodation” and “otherwise qualified.” The court found that a disabled student, in this case a student with visual and neurological difficulties, was unable to reasonably perform the duties of an optometrist.

**Summary**

This chapter presents a review of the literature relating to metropolitan institutions of higher education, the students attending metropolitan institutions, the student legal
issues related to higher education, and several court cases. The literature demonstrates the distinct issues that metropolitan institutions of higher education must examine and the special needs of students attending these institutions. Chapter three describes the design of the study along with procedures for the collection and analysis of the data.
CHAPTER III

METHODOLOGY

Introduction

To fulfill the purposes of this study, descriptive data were collected from chief student affairs officers and chief legal affairs officers employed within institutions self-identifying as metropolitan through membership in the Coalition of Urban and Metropolitan Universities (CUMU). This chapter contains sections on (a) the research design, (b) the procedures for collecting the data, (c) the survey instrument, (d) the population, (e) the procedures for the analysis of the data, and (f) the reporting of the data.

Research Design

The study was designed partly to describe future student legal issues likely to confront metropolitan institutions of higher education as reported by chief student affairs officers and chief legal officers of institutions affiliated with the Coalition of Urban and Metropolitan Universities. The research attempted to gain information of the officer’s perceptions of student legal issues. The study also attempted to identify methods by which chief student affairs officers and chief legal affairs officers prepared for future student legal issues.
Procedures for the Collection of Data

At the time of this study 44 institutional members (Appendix A) comprised the Coalition of Urban and Metropolitan Universities (CUMU). A modified version of Bishop's (1993) Legal Survey was used to obtain data concerning administrator's perception of impending student legal issues. An explanation letter (Appendix B), an instrument (Appendix C), and a return envelope were mailed to each of the chief student affairs officers and chief legal officers of the nation's metropolitan institutions of higher education on June 5, 1996. A second letter (Appendix D), instrument, and return envelope were sent to non-responding officers on June 29, 1996. E-mail messages were sent to remaining non-responding officers. These efforts resulted in a 66 percent return rate for both groups.

Instrument

The instrument used measured the perceptions of higher education administrators of metropolitan institutions regarding student legal issues of the next 10 years. The instrument was constructed and pilot tested by Bishop (1993). The instrument was deemed valid by a panel of legal experts with advanced academic degrees in a Washington, D.C. law firm. No errors in instrument construct or difficulty in comprehending the test instructions were found by the panel of legal experts.

The first part of the questionnaire developed by Bishop (1993) explores six demographic dimensions. The second part of the questionnaire includes questions concerning the probability of student legal challenge in nine areas. The areas are: admissions; athletics; financial aid; tort liability; student organizations; student housing;
academic affairs; tuition and; emerging issues. A Likert-type scale measuring one (less than 10%) to six (more than 90%) was used. A tenth area was added in order to gain information concerning how the officers are preparing for future student legal challenges.

Demographic Information

The first part of the questionnaire requests information regarding several factors. Name, gender, and highest degree held are each solicited. Two questions were asked in reference to length of time in the current position and length of time employed at the current institution. Two questions requested information regarding personal involvement in litigation and personal legal philosophy.

Admissions

Survey items concerning admissions in higher education were investigated in this section. Respondents were asked to estimate the probability that their institution will be legally challenged in the next ten years in five areas of admissions. The five areas are: 1) admission criteria; 2) affirmative action; 3) reverse discrimination; 4) sex/age discrimination; and 5) an opportunity to identify other admissions related areas which might be litigated in the next ten years.

Athletics

Survey items regarding athletics in higher education were included in this section. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next ten years in four areas of athletics. These four areas are: 1) recruiting and scholarships; 2) continuing student eligibility; 3) tort liability; and 4) an opportunity to identify other athletics related areas which might be litigated in the next ten
years. Title IX and NCAA and conference regulations were items added to the original instrument.

Financial Aid

Survey items concerning financial aid in higher education were included in this section. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next ten years in five areas of financial aid. These five areas are: 1) denial or termination of aid; 2) discrimination in the award of aid; 3) veteran’s benefits; and 5) an opportunity to identify other financial aid related areas which might be litigated in the next ten years. A sixth area, defaulting student loans, was added to the original survey.

Tort Liability

Survey items regarding tort liability in higher education were included in this section. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next 10 years in four areas of tort liability. These four areas are: 1) defamation; 2) negligence; 3) fraud; and 4) an opportunity to identify other tort liability related areas which might be litigated in the next 10 years.

Student Organizations

Survey items concerning student organizations in higher education were included in this section. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next 10 years in three areas of student organizations. These three areas are: 1) recognition; 2) activities; and 3) an opportunity to identify other
student organization related areas which might be litigated in the next 10 years. Student newspapers and funding of religious organizations were added to this section.

**Student Housing**

Survey items regarding student housing in higher education were included in this section. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next 10 years in four areas of student housing. These four areas are: 1) required residence; 2) rules and contracts; 3) solicitation; and 4) an opportunity to identify other student housing related areas which might be litigated in the next 10 years. Search and seizure was added to the original survey instrument.

**Academic Affairs**

Survey items concerning academic affairs in higher education were included in this section. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next 10 years in four areas of academic affairs. These four areas are: 1) academic standards; 2) dismissals; 3) academic dishonesty; and 4) an opportunity to identify other academic affairs related areas which might be litigated in the next 10 years. Catalogs and publications as contracts and consensual sexual relationships with faculty were added to the original version of the instrument.

**Tuition**

Survey items regarding tuition in higher education were included in this section. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next 10 years in three areas of tuition. These three areas are:
1) criteria use to determine residency; 2) annual charges; and 3) an opportunity to identify other tuition related areas which might be litigated in the next 10 years. A fourth area, tuition and fees, was added to the original survey instrument.

**Miscellaneous Student Legal Issues**

Seven survey items concerning miscellaneous student legal issues in higher education were included in the instrument. Respondents were asked to estimate the probability that their institutions will be legally challenged in the next 10 years in seven areas of emerging issues. These eight areas were: 1) health risks on campus; 2) alcohol liability; 3) course content accountability; 4) cyberspace (Internet) issues; 5) disabled students; 6) off campus criminal offenses; 7) sexual orientation; and 8) an opportunity to identify other emerging student legal issues that might be litigated in the next 10 years.

**Preparation for the Future**

This item was added to the survey to gain information concerning how the officers may be preparing for future student legal issues. Three possible avenues to prepare for future student legal issues are offered. These three avenues were: 1) legal conferences, 2) student affairs conferences, 3) continuing formal education, and 4) no formal preparation. The respondents also had the opportunity to identify other avenues by which to prepare for future student legal issues.

**The Population**

The population for this study consisted of all chief student affairs officers and chief legal officers affiliated with the Coalition of Urban and Metropolitan Universities.
(CUMU). There are currently 44 members of the coalition. The total number of administrators receiving the survey was 88. See Appendix C for a listing of the institutions affiliated with the Coalition of Urban and Metropolitan Universities. The population of 88 administrators were sent the survey.

Procedures for the Analysis of Data

Frequency counts were employed for the data analysis. Percentage distributions were used in order to detect differences in responses of chief student affairs officers and chief legal affairs officers.

Reporting of Data

The first phase contained descriptive analysis of the data. The second stage consisted of reporting the statistical analysis of the data through tables and diagrams. Frequency counts and percentage distributions were employed to analyze the data in all ten areas of the survey instrument.

Research Questions

This study was guided by research questions related to the student legal issues metropolitan universities may confront in the next ten years. The following questions guided the research:

Research question 1: What are the student legal issues which will confront America’s metropolitan institutions of higher education in the next ten years as perceived by the chief student affairs officers of these institutions?
Research question 2: What are the student legal issues which will confront America’s metropolitan institutions of higher education in the next ten years as perceived by the chief legal officers of these institutions?

Research question 3: What are the chief student affairs officers and chief legal officers currently doing to prepare for dealing with the legal issues they will confront in the next 10 years?
CHAPTER IV

PRESENTATION OF DATA

Introduction

This chapter contains the responses of the survey participants to the mailed questionnaire. The chapter is organized into four parts: 1) reportage of respondent demographic data, 2) presentation of the chief student affairs responses to Bishop’s Legal Survey, 3) presentation of the chief legal affairs responses to Bishop’s Legal Survey, and 4) presentation of the means by which chief student affairs officers and chief legal affairs officers are preparing for future student legal issues.

Demographic Data: Chief Student Affairs Officers

Bishop’s Legal Survey was sent to 44 chief student affairs officers employed with the institutional members of the Coalition of Urban and Metropolitan universities (CUMU). Demographic data obtained consisted of gender, highest degree held, number of years in current position, number of years employed with present institution, litigation experience associated with current institution, and personal legal philosophy. A response rate of 66 percent was achieved. In Table 1 appears a summary of the findings.

Of the 29 respondents to the survey, 23 (79 percent) were male and six (21 percent) were female. Of these respondents, three (10 percent) held Master’s degrees, nine (31 percent) held the Doctor of Education degree, 16 (55 percent) held the Doctor of
Table 1. Characteristics of Chief Student Affairs Officer Respondents (N=29)

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<tr>
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<th>Percent</th>
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<td>Total</td>
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</table>
Philosophy degree, and one (three percent) held both the Juris Doctor (law degree) and the doctorate.

The chief student affairs officers responding to the survey had been in their current positions for varying years. Five (17 percent) respondents had been in their current positions between one and three years, five (17 percent) had held their positions between four and five years, eight (28 percent) had held their positions six to 10 years, five (17 percent) had held their positions 11 to 15 years, and six (21 percent) had held their positions over 16 years.

The chief student affairs officer respondents had also been employed with the same institution for a number of years. Three (10 percent) had been employed with the same institution for one to three years, two (seven percent) had been employed with the same institution for four to five years, six (21 percent) had been employed at the same institution for six to 10 years, six (21 percent) had been employed at the same institution for 11 to 15 years, and 12 (41 percent) had been employed with the same institution for over 16 years.

Twenty (69 percent) of the chief student affairs officers had been involved in litigation with their present institution while nine (31 percent) had not. Eleven (38 percent) characterized their personal legal philosophy as liberal, six (21 percent) characterized their personal legal philosophy as neutral, and 12 (41 percent) characterized their personal legal philosophy as conservative.
Demographic Data: Chief Legal Affairs Officers

Bishop's (1993) Legal Survey was also sent to 44 chief legal affairs officers employed with the institutional members of the Coalition of Urban and Metropolitan universities (CUMU). Demographic data obtained consisted of gender, highest degree held, number of years in current position, number of years employed with present institution, involvement in litigation associated with present institution, and personal legal philosophy. A response rate of 66 percent was achieved. In Table 2 appears a summary of the findings.

Of the 29 respondents to the survey, 19 (66 percent) were male and 10 (34 percent) were female. Of these respondents, one (three percent) held Master's degrees, one (three percent) held the Doctor of Philosophy, 25 (86 percent held the Juris Doctor, and two (seven percent) held both the Juris Doctor and the doctorate.

The chief legal affairs officers responding to the survey had been in their current position for a variety of years. Twelve (41 percent) respondents had been in their current position between one and three years, two (seven percent) had held their position between four and five years, six (21 percent) had held their position six to 10 years, one (three percent) had held their position 11 to 15 years, and eight (28 percent) had held their position over 16 years.

The chief legal affairs officer respondents had also been employed with the same institution for a varying number of years. Ten (34 percent) had been employed with the same institution for one to three years, one (three percent) had been employed with the
same institution for four to five years, five (17 percent) had been employed at the same institution for six to 10 years, two (seven percent) had been employed at the same institution for 11 to 15 years, and 11 (38 percent) had been employed with the same institution for over 16 years.

Twenty-six (90 percent) of the chief legal affairs officers had been involved in litigation with their present institution while three (10 percent) had not. Fourteen (48 percent) characterized their personal legal philosophy as liberal, seven (24 percent) characterized their personal legal philosophy as neutral, and eight (28 percent) characterized their personal legal philosophy as conservative.

Responses of Chief Student Affairs Officers

The responses of chief student affairs officers were recorded using frequency counts and percentage distributions. Each dimension measured by Bishop’s Legal Survey is recorded below. The dimensions were: admissions, athletics, financial aid, tort liability, student organizations, student housing, academic affairs, tuition, and miscellaneous student legal issues. The probability of legal challenge in the next ten years was divided into three categories. The categories were: low probability of legal action (under 30%), moderate probability of legal action (between 30-70%), and high probability of legal action (over 70%). A summary of responses by chief student affairs officer responses is presented in Table 3.

The admissions dimension inquired into four possibilities for legal challenge in the next ten years. The first, admission criteria, received 86 percent response in the low category, 10 percent in the moderate category, and three percent in the high category. The
Table 2. Characteristics of Chief Legal Affairs Officer Respondents (N=29)

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<th>Descriptive Variables</th>
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</table>
second, affirmative action, received 38 percent in the low category, 41 percent in the moderate category, and 21 percent in the high category. The third area, reverse discrimination, received 59 percent in the low category, 34 percent in the moderate category, and seven percent in the high category. The final area in admissions, sex/age discrimination, received 41 percent in the low category, 34 percent in the moderate category, and 24 percent in the high category.

The athletics dimension investigated five areas of possible legal challenge in the next ten years. The first, recruiting and scholarships, received 72 percent in the low category, 21 percent in the moderate category, and seven percent in the high category.

The second area, continuing student eligibility, received 76 percent in the low category, 24 percent in the moderate category, and zero percent in the high category. The third area, tort liability, included 48 percent in the low category, 34 percent in the moderate category, and 17 percent in the high category. The fourth area, Title IX, received 48 percent in the low category, 34 percent in the moderate category, and seventeen percent in the high category. The final area for athletic student legal issues, NCAA and conference regulations, received 66 percent response in the low category, 28 percent in the moderate category, and seven percent in the high category.

The financial aid dimension required responses in four areas. The first, denial or termination of aid, received 69 percent response in the low category, 31 percent in the moderate category, and zero percent in the high category. The second area, discrimination in the award of aid, received a response of 72 percent in the low category, 28 percent in the moderate category, and zero percent in the high category. The third area, veteran’s
Table 3. Responses of Chief Student Affairs Officers (N=29)

<table>
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<tr>
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<th>30-70% (moderate)</th>
<th>Over 70% (high)</th>
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<td>f</td>
<td>%</td>
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Table 3. Responses of Chief Student Affairs Officers (cont.)

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<tr>
<td>Sexual orientation</td>
<td>19</td>
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<td>7</td>
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</table>
benefits, received 83 percent in the low category, 17 percent in the moderate category, and zero percent in the high category. The final area, defaulting student loans, received 86 percent in the low category, 14 percent in the moderate category, and zero percent in the high category.

The tort liability dimension examined three areas. The first, defamation, received 72 percent in the low category, 24 percent in the moderate category, and three percent in the high category. The second area, negligence, received 55 percent in the low category, 38 percent in the moderate category, and seven percent in the high category. Fraud, the final area in the financial aid dimension, received 90 percent in the low category, 10 percent in the moderate category, and zero percent in the high category.

Student organizations, the fifth dimension of the survey, examined five areas of possible legal action in the next ten years. The first, recognition, received 79 percent in the low category, 21 percent in the moderate category, and zero percent in the high category. The second area, activities, received 62 percent in the low category, 34 percent in the moderate category, and three percent in the high category. The third area, student newspapers, received 66 percent in the low category, 21 percent in the moderate category, and 14 percent in the high category. The fourth area, religious organizations, received 72 percent in the low category, 24 percent in the moderate category, and three percent in the high category. The final area, fraternities and sororities, received 48 percent in the low category, 31 percent in the moderate category, and 21 percent in the high category.

Student housing was the sixth dimension examined in the study. This dimension had four areas. The first, required residence, received 93 percent in the low rating, seven
percent in the moderate category, and zero percent in the high category. Rules and contracts, the second area, received 76 percent in the low category, 21 percent in the moderate category, and three percent in the high category. The third area, solicitation, received 90 percent in the low category, seven percent in the moderate category, and three percent in the high category. The final area in the student housing dimension was search and seizure. This area received 76 percent in the low category, 21 percent in the moderate category, and three percent in the high category.

The seventh dimension, academic affairs, examined five areas of possible litigation in the next ten years. The first, academic standards, received 86 percent in the low category, 14 percent in the moderate category, and zero percent in the high category. The second area, dismissals, received 62 percent in the low category, 28 percent in the moderate category, and 10 percent in the high category. The third area, academic dishonesty, received 62 percent in the low category, 34 percent in the moderate category, and three percent in the high category. Catalogs and publications as contracts, the fourth area, received 90 percent in the low category, three percent in the moderate category, and seven percent in the high category. The final area, consensual sexual relationships with faculty, received 59 percent in the low category, 31 percent in the moderate category, and 10 percent in the high category.

Tuition, the eighth dimension, contained three areas of possible student legal concern in the next ten years. The first, criteria used to determine residency, received 59 percent in the low category, 24 percent in the moderate category, and 17 percent in the
high category. The second area, annual charges, received 79 percent in the low category, 17 percent in the moderate category, and three percent in the high category. The final area in the tuition dimension was tuition and fees. This area received 76 percent in the low category, 21 percent in the moderate category, and three percent in the high category.

The final dimension contained miscellaneous student legal issues that might affect metropolitan institutions in the next ten years. This final dimension included seven areas of possible concern. The first area, health risks on campus, received 79 percent in the low category, 14 percent in the high category, and seven percent in the high category. The second area, alcohol liability received 72 percent in the low category, 17 percent in the moderate category, and 10 percent in the high category. The third area, course content accountability, received 72 percent in the low category, 24 percent in the moderate category, and three percent in the high category. The fourth area, cyberspace issues, received 45 percent in the low category, 38 percent in the moderate category, and 17 percent in the high category. Disabled students, the fifth area, received 34 percent in the low category, 41 percent in the moderate category, and 24 percent in the high category. Off campus criminal offenses received 69 percent in the low category, 21 percent in the moderate category, and 10 percent in the high category. The final area in the miscellaneous dimension, sexual orientation, received 66 percent in the low category, 24 percent in the moderate category, and 10 percent in the high category.

Few of the categories and fewer of the dimensions appear to be of great student legal concern for the chief student affairs officers employed at metropolitan institutions of
The two dimensions with the most concern of the chief student affairs officers were admissions and miscellaneous student legal issues. The specific concerns of more than 20 percent of the chief student affairs officers were the areas of affirmative action, sex/age discrimination, fraternities and sororities, and disabled students. The two dimensions of least concern for the chief student affairs officers were financial aid and student housing.

Responses of Chief Legal Affairs Officers

The responses of chief legal affairs officers were recorded using frequency counts and percentage distributions. Each dimension measured by Bishop's Legal Survey is recorded below. The dimensions are: admissions, athletics, financial aid, tort liability, student organizations, student housing, academic affairs, tuition, and miscellaneous student legal issues. The probability of legal challenge in the next ten years was broken into three categories. The categories were: low probability of legal action (under 30%), moderate probability of legal action (between 30-70%), and high probability of legal action (over 70%). A summary of responses by chief legal affairs officer responses is available in Table 4.

The admissions dimension contained four areas of possible concern with regard to student legal issues. The first area, admission criteria, received 45 percent in the low category, 28 percent in the moderate category, and 28 percent in the high category. The second area, affirmative action, received 21 percent in the low category, 28 percent in the moderate category, and 52 percent in the high category. The third area, reverse discrimination, received 31 percent in the low category, 17 percent in the moderate
category, and 52 percent in the high category. The final area in the admissions dimension
was sex/age discrimination, received 24 percent in the low category, 28 percent in the
moderate category, and 48 percent in the high category.

The athletics dimension contained five areas of possible concern with regard to
student legal issues. The first, recruiting and scholarships, received 69 percent in the low
category, 17 percent in the moderate category, and 14 percent in the high category.
Continuing student eligibility, the second area, received 72 percent in the low category, 21
percent in the moderate category, and seven percent in the high category. Tort liability, the
third area, received 31 percent in the low category, 38 percent in the moderate category,
and 31 percent in the high category. Title IX received 24 percent in the low category, 34
percent in the moderate category, and 41 percent in the high category. NCAA and
conference regulations, the final category in this dimension, received 45 percent in the low
category, 38 percent in the moderate category, and 17 percent in the high category.

The next dimension, financial aid, contained four areas of possible concern
regarding student legal issues. The first, denial or termination of aid, received 48 percent
in the low category, 45 percent in the moderate category, and seven percent in the high
category. The next area, discrimination in the award of aid, received 45 percent in the low
category, 41 percent in the moderate category, and 14 percent in the high category.
Veteran’s benefits received 86 percent in the low category, 10 percent in the moderate
category, and three percent in the high category. The final area in the financial aid
dimension, defaulting student loans, received 52 percent in the low category, 28 percent in
the moderate category, and 21 percent in the high category.
Table 4. Responses of Chief Legal Affairs Officers (N=29)

<table>
<thead>
<tr>
<th>Areas of Litigation</th>
<th>Under 30% (low)</th>
<th>30-70% (moderate)</th>
<th>Over 70% (high)</th>
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<td>Religious organizations</td>
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<td>Fraternities and sororities</td>
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Table 4. Responses of Chief Legal Affairs Officers (cont.)

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<th>Areas of Litigation</th>
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<th>30-70% (moderate)</th>
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<td>Health risks on campus</td>
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<td>Alcohol liability</td>
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<tr>
<td>Sexual orientation</td>
<td>15</td>
<td>52</td>
<td>10</td>
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</table>
Tort liability, the fourth dimension, contained three areas of possible student legal concern. The first of the areas, defamation, received 45 percent in the low category, 24 percent in the moderate category, and 31 percent in the high category. The next area, negligence, received 17 percent in the low category, 17 percent in the moderate category, and 66 percent in the high category.

Student organizations, the next dimension, contained five areas of possible concern regarding student legal issues. Recognition, the first area, received 72 percent in the low category, 21 percent in the moderate category, and seven percent in the high category. Activities, the next area, received 66 percent in the low category, 31 percent in the moderate category, and three percent in the high category. Student newspapers, the third area in this dimension, received 52 percent in the low category, 45 percent in the moderate category, and three percent in the high category. The next area, religious organizations, received 45 percent in the low category, 48 percent in the moderate category, and seven percent in the high category. Fraternities and sororities, the final area in this dimension, received 52 percent in the low category, 41 percent in the moderate category, and seven percent in the high category.

Student housing, the next dimension, contained four areas of possible concern regarding student legal issues. The first area, required residence, received 100 percent in the low category. The next area, rules and contracts, received 55 percent in the low category, 38 percent in the moderate category, and seven percent in the high category. Solicitation, the next area, received 72 percent in the low category, 24 percent in the moderate category, and three percent in the high category. The final area in this
dimension, search and seizure, received 55 percent in the low category, 34 percent in the moderate category, and 10 percent in the high area.

The seventh dimension, academic affairs, contained five areas of possible concern regarding student legal issues. Academic standards, the first area, received 55 percent in the low category, 31 percent in the moderate category, and 14 percent in the high category. Dismissals, the second area, received 31 percent in the low category, 31 percent in the moderate category, and 38 percent in the high category. The next area, academic dishonesty, received 31 percent in the low category, 31 percent in the moderate category, and 38 percent in the high category. Catalogs and publications as contracts, the next area, received 38 percent in the low category, 52 percent in the moderate category, and 10 percent in the high category. The final area in this dimension, consensual sexual relationships with faculty, received 45 percent in the low category, 41 percent in the moderate category, and 14 percent in the high category.

Tuition, the next dimension, contained three areas of possible legal concern with regard to student legal issues. The first, criteria used to determine residency, received 55 percent in the low category, 28 percent in the moderate category, and 17 percent in the high category. The next area, annual charges, received 83 percent in the low category, 14 percent in the moderate category, and three percent in the high category. The final area of this dimension, tuition and fees, received 86 percent in the low category, 14 percent in the moderate category, and zero percent in the high category.

The final dimension, miscellaneous student legal issues, contained seven areas of possible concern. The first, health risks on campus, received 72 percent in the low
category, 21 percent in the moderate category, and seven percent in the high category.
The next area, alcohol liability, received 48 percent in the low category, 34 percent in the
moderate category, and 17 percent in the high category. Course content liability, the third
area, received 66 percent in the low category, 28 percent in the moderate category, and
seven percent in the high category. The next area, cyberspace issues, received 31 percent
in the low category, 31 percent in the moderate category, and 38 percent in the high
category. Disabled student, the next area, received 14 percent in the low category, 45
percent in the moderate category, and 41 percent in the high category. The sixth area, off
campus criminal offenses, received 62 percent in the low category, 34 percent in the
moderate category, and three percent in the high category. The final area in this
dimension, sexual orientation, received 52 percent in the low category, 34 percent in the
moderate category, and 14 percent in the high category.

Like the chief student affairs officers, at least 20 percent of chief legal affairs
officers believed affirmative action, sex/age discrimination, and disabled students were
highly probable of being litigated in the next 10 years. In addition to these three areas, at
least 20 percent of chief legal affairs officers also believed admissions criteria, reverse
discrimination, athletic tort liability, Title IX, defaulting student loans, defamation,
negligence, dismissals, academic dishonesty, and cyberspace issues most likely to be
litigated in the next 10 years. It is interesting to note that chief student affairs officers
believed fraternities and sororities would create litigation for the institution while the chief
legal affairs officers did not.
The two dimensions chief legal affairs officers believed most likely to be litigated in the next 10 years were admissions and tort liability. The two dimensions chief legal affairs officers thought least likely to be litigated were student housing and tuition.

Preparation for the Future

The responses of chief student affairs officers and chief legal affairs officers were recorded using percentage distributions. This section, “Preparation for the Future,” was added to Bishop’s Legal Survey. The section was designed to ascertain the strategies employed by chief student affairs officers and chief legal affairs officers to deal with future student legal issues. The chief student affairs officers and chief legal affairs officers of institutions affiliated with the Coalition of Urban and Metropolitan Universities (CUMU) were asked to respond to the following categories of Bishop’s Legal Survey: legal conferences, student affairs conferences, continuing formal education, and no formal preparation. The responses available to the participants were “yes” and “no.” A summary of responses by chief student affairs officers and chief legal affairs officer responses is available in Table 5.

Seventy-nine percent of chief student affairs officers responded that attendance at legal conferences will help them prepare for future student legal issues. One hundred percent of chief legal affairs responded that attendance at legal conferences will help them prepare for future student legal issues. One hundred percent of chief student affairs officers responded that they will continue attending student affairs conferences to prepare for dealing with future student legal issues. Sixty-two percent of chief legal affairs responded
Table 5. Strategies for Preparing for the Future (N=58)

<table>
<thead>
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<td>INTERNET</td>
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that they will continue to attend student affairs conferences in order to prepare for future student legal issues.

Thirty-four percent of chief student affairs officers expect continuing education to prepare them for future student legal issues, while 48 percent of chief legal affairs officers will employ this method. Only three percent of chief student affairs officers admitted to doing no preparation for student legal issues. There were no chief legal affairs officers who say they will use no formal preparation for dealing with future student legal issues.

Respondents were allowed to add other methods by which they will prepare for future legal issues. Thirty-one percent of chief student affairs officers added that the reading of professional literature will allow them to stay abreast of future student legal issues. Fourteen percent of chief legal affairs officers use professional literature to prepare for dealing with future student legal issues. Three percent of chief student affairs officers and chief legal affairs officers use the internet to prepare for dealing with future student legal issues.
CHAPTER V

SUMMARY, DISCUSSION OF FINDINGS,
CONCLUSIONS, AND RECOMMENDATIONS

Summary

The purposes of this study were to identify future legal issues to be confronted by metropolitan universities as perceived by chief student affairs officers and chief legal affairs officers. The study also examined future student legal issues in the areas of admissions, athletics, financial aid, tort liability, student organizations, academic affairs, tuition, student housing, and miscellaneous issues. Finally, the study examined the methods by which chief student affairs officers and chief legal affairs officers prepared for future student legal issues.

Analysis of the data provided by chief student affairs officers indicates little concern for future litigation in most of the categories examined by Bishop's Legal Survey. The two dimensions of most concern to chief student affairs officers were admissions and miscellaneous student legal issues. The specific concerns of chief student affairs officers were affirmative action, sex/age discrimination, fraternities and sororities, and disabled students. The two dimensions of least concern for the chief student affairs officers were financial aid and student housing.

Chief legal affairs officers also believe affirmative action, sex/age discrimination,
and disabled student are highly probable of being litigated in the next 10 years. Chief legal affairs officers also believe admissions criteria, reverse discrimination, athletic tort liability, Title IX, defaulting student loans, defamation, negligence, dismissals, academic dishonesty, and cyberspace issues to be highly probable of litigation in the next 10 years. Unlike chief student affairs officers, chief legal affairs officers do not believe fraternities and sororities to be likely causes of litigation in the next 10 years.

The two dimensions chief legal affairs officers believed most likely to be litigated in the next 10 years are admissions and tort liability. The two dimensions chief legal affairs officers believed least likely to involve litigation in the next 10 years are student housing and tuition.

In order to prepare for future legal issues both chief student affairs officers and chief legal affairs officers plan to attend conferences. Both groups also expect to make use of continuing education to prepare for dealing with future student legal issues. Both groups expects to read professional literature when preparing for future student legal issues. A small percentage of chief student affairs officers and chief legal affairs officers will use the internet to prepare for future student legal issues.

Discussion of Findings

The study found that the characteristics of chief student affairs officers and chief legal affairs officers are similar. The majority of chief student affairs officers and chief legal affairs officers are male. While women have been attaining positions as chief student affairs officers, the field is still predominantly staffed by males in the highest post. The majority of both groups hold the highest academic degree in their field. The majority of
both groups have been in their current position more than six years. The majority of both
groups have been employed with their current institution more than six years. These
results are not surprising. These types of positions are at the top of their respective fields.
Once in these positions, chief student affairs officers and chief legal affairs officers are not
likely to move on to another position quickly.

The majority of both groups have been involved in litigation associated with their
current institution. The majority of chief student affairs officers reported their personal
legal philosophy as conservative. By contrast, the majority of chief legal affairs officers
reported their personal legal philosophy as liberal. This result may be surprising upon
initial inspection. However, this survey question requires the respondent to examine his or
her legal philosophy as related to the legal statute and the Constitution of the United
States. While many chief student affairs officers may consider themselves as “liberal” in
social application, they probably do not feel qualified to interpret the spirit of the law.
Conversely, chief legal affairs officers, much more familiar with legal statute, seem to be
more comfortable when interpreting legal statute and the Constitution for others.

The study found that chief student affairs officers do not perceive many areas of
future litigation to be highly likely. Fraternities and sororities and disabled students were
the only categories 20 percent or more chief student affairs officers believed to be highly
likely of litigation in the next 10 years.

Twenty percent or more chief legal affairs officers believed several categories of
student legal issues will be litigated in the next ten years. Admissions criteria, reverse
discrimination, athletic tort liability, Title IX, defaulting student loans, defamation,
negligence, dismissals, academic dishonesty, and cyberspace issues were viewed to be highly probable of litigation in the next 10 years by chief legal affairs officers.

In the admissions dimension, most chief student affairs officers believed that affirmative action has a low possibility of litigation in the next ten years. Most chief student affairs officers believed affirmative action to have a moderate possibility of litigation in the next ten years. Most chief student affairs officers believed both reverse discrimination and sex/age discrimination to have a high possibility of litigation in the next ten years.

Most chief legal affairs officers also believed affirmative action to have a low possibility of litigation in the next ten years. However, most chief legal affairs officers believed affirmative action, reverse discrimination, and sex/age discrimination to be highly likely of litigation in the next ten years.

One response to the discrepancy may be that chief student affairs officers are not frequently involved with the admissions process. Chief student affairs officers are more involved with students after the admissions process has been completed. Chief legal affairs officers may be involved with students at the beginning of the admissions process.

In the athletics dimension, most chief student affairs officers believed all of the categories to have a low possibility of litigation in the next ten years. Recruiting and scholarships, continuing student eligibility, athletic tort liability, Title IX, and NCAA and conference regulations each were given a low possibility of litigation by most chief student affairs officers.
Most chief legal affairs officers believed the categories recruiting and scholarships, continuing eligibility, and NCAA and conference regulation to be least likely of litigation in the next ten years. Athletic tort liability was perceived to have a moderate possibility of litigation in the next ten years. Most chief legal affairs officers believed Title IX to have a high possibility of litigation in the next ten years.

Metropolitan universities, with few exceptions, house “big time” athletic programs. An institution such as Washburn University will probably not have the same athletic concerns as Florida State University. One would expect that athletics at one of the premier programs would be many times more complicated that at an institution in which athletics plays little or no role.

In the financial aid dimension, most chief student affairs officers believed all of the categories to have a low possibility of litigation in the next ten years. Denial or termination of aid, discrimination in the award of aid, veteran’s benefits, and defaulting student loans were each given the low rating by chief student affairs officers.

Most chief legal affairs officers agreed with chief student affairs officers in this dimension. Denial or termination of aid, discrimination in the award of aid, veteran’s benefits, and defaulting student loans all received a low possibility of litigation by chief legal affairs officers.

It is surprising that in an institution where many students are less wealthy and largely minority (Barnett & Phares, 1995) there is not more concern for financial aid legal issues by chief student affairs officers and chief legal affairs officers. One might surmise
metropolitan institutions of higher education to be well adapted with the financial aid process. Because many students attending metropolitan institutions are in need of financial aid, chief student affairs officers and chief legal affairs officers may believe the institution to be better equipped to manage these student needs. Thus, litigation in this area would be minimal.

In the tort liability dimension, most chief student affairs officers believed each of the categories to have a low possibility of litigation in the next ten years. Defamation, negligence, and fraud each received a low rating from most of the chief student affairs officers.

Most chief legal affairs officers believed defamation and fraud to have a low possibility of litigation in the next ten years. However, most chief legal affairs officers believed negligence to have a high possibility of litigation in the next ten years.

Tort liability is typically a primary area of legal concern in the student affairs arena (Correnti, 1988). It is surprising that most responses in this dimension received a low rating.

In the student organizations dimension, most chief student affairs officers believed all categories to have a low possibility of litigation in the next ten years. Recognition, activities, student newspapers, religious organizations, and fraternities and sororities each received a low possibility of litigation by most chief student affairs officers.

Most chief legal affairs officers also believed there will be little litigation in the student organization dimension in the next ten years. Most chief legal affairs officers believed recognition, activities, student newspapers, and fraternities and sororities to have
a low possibility of litigation in the next ten years. Most chief legal affairs officers believed religious organizations to have a moderate possibility of litigation in the next ten years.

This result is surprising given that recognition of student organizations (Maloney, 1988), student newspapers (Schuh, 1988), religious organizations (Buchanan, 1988), and fraternities and sororities (Baier and Whipple, 1990) has caused such a large amount of litigation in the past.

In the student housing dimension, most chief student affairs officers believed each category to have a low possibility of litigation in the next ten years. Required residence, rules and contracts, solicitation, and search and seizure each received a low possibility of litigation in the next ten years by chief student affairs officers.

Most chief legal affairs officers also believed the student housing dimension to have a low possibility of litigation in the next ten years. Required residence, rules and contracts, solicitation, and search and seizure each received a low possibility of litigation in the next ten years by chief legal affairs officers.

Housing programs have been described as a legal "high risk" in the past (Buckner, 1988). The student housing dimension has been greatly litigated in past years. Again, it is surprising that both chief student affairs officers and chief legal affairs officers believed student housing to be a low possibility of legal litigation in the next ten years.

In the academic affairs dimension, most chief student affairs officers believed each category to have a low possibility of litigation in the next ten years. Academic standards, dismissals, academic dishonesty, catalogs and publications as contracts, and consensual
sexual relationships with faculty each received a low possibility of litigation in the next ten years by chief student affairs officers.

Most chief legal affairs officers believed academic standards and consensual sexual relationships with faculty to have a low possibility of litigation in the next ten years. Most chief legal affairs officers believed catalogs and publications as contracts to have a moderate possibility of litigation in the next ten years. Dismissals and academic dishonesty each received a high possibility of litigation in the next ten years by most chief legal affairs officers.

These responses are reflective of the limited exposure to student legal issues in the arena of academic affairs that chief student affairs officers confront. Chief legal affairs officers are most likely to deal with academic issues.

In the tuition dimension, most chief student affairs officers believed each of the categories to have a low possibility of litigation in the next ten years. Criteria to determine residency, annual charges, and tuition and fees each received a low possibility of litigation in the next ten years by chief student affairs officers.

Most chief legal affairs officers also believed each of the categories in the tuition dimension to have a low possibility of litigation in the next ten years. Criteria to determine residency, annual charges, and tuition and fees received a low possibility of litigation in the next ten years by chief legal affairs officers.

Tuition appears to be an area of student affairs relatively free of litigation as perceived by chief student affairs and chief legal affairs officers. Students appear to accept the responsibility of tuition.
In the miscellaneous dimension, most chief student affairs officers believed all but one category to have a low possibility of litigation in the next ten years. Health risks on campus, alcohol liability, course content accountability, cyberspace issues, off campus criminal offenses, and sexual orientation each received a low possibility of litigation in the next ten years by chief student affairs officers. One category, disabled students, received a moderate possibility of litigation in the next ten years by most chief student affairs officers.

Most chief legal affairs officers believed health risks on campus, alcohol liability, course content accountability, off campus, criminal offenses, and sexual orientation to have a low possibility of litigation in the next ten years. One category, disabled students, received a moderate possibility of litigation in the next ten years by most chief legal affairs officers. Cyberspace issues received a high possibility of litigation in the next ten years by most chief legal affairs officers.

It appears that most chief student affairs officers are not aware of possible litigation in the miscellaneous dimension of student legal issues in the next ten years. Chief legal affairs officers believe a much greater risk in this area to exist.

Chief student affairs officers and chief legal affairs officers prepare for future student legal issues in much the same way. Conferences are most utilized by both chief student affairs officers and chief legal affairs officers. More chief legal affairs officers use continuing education to prepare for future student legal issues. More chief student affairs officers avail themselves the professional literature to prepare for future student legal issues. Few chief student affairs officers or chief legal affairs officers use the internet to prepare for future student legal issues.
Conclusions

The problem of this study was to identify student legal issues confronting American metropolitan institutions of higher education in the next ten years. The following conclusions are made based on the findings of this study.

1. Chief student affairs officers and chief legal affairs officers have very different perception as to the most likely student legal issues to be litigated in the next ten years.

2. Most chief student affairs officers do not believe many student legal issues are highly likely to be litigated in the next ten years. Affirmative action, sex/age discrimination, fraternities and sororities, and disabled students were the only student legal issues at least 20 percent of chief student affairs officers believed to be highly likely of litigation in the next ten years.

3. Most chief legal affairs officers believe many student legal issues to be highly likely of litigation in the next ten years. At least 20 percent of the chief legal affairs officers believed admission criteria, affirmative action, reverse discrimination, sex/age discrimination, athletic tort liability, Title IX, defaulting student loans, defamation, negligence, academic dismissals, academic dishonesty, cyberspace issues, and disabled students to be highly likely of litigation in the next ten years.

4. Chief student affairs officers and chief legal affairs officers prepare very similarly for future student legal issues they may confront in the future. There is a large amount of crossover between professional conferences of chief student affairs officers and chief legal affairs officers. Student affairs and legal affairs officers will attend professional conferences of both groups in order to stay abreast of student legal issues.
5. It appears chief student affairs officers are not prepared to confront many of the student legal issues highly likely to be litigated in the next ten years.

Recommendations for Further Research

Student legal issues will continue to confront higher education administrators. There are other factors this study did not examine. The following recommendations are made for further research:

1. Similar research should be conducted with private colleges and universities in metropolitan areas. Student legal issues in these institutions of higher education may prove to be different.

2. Further investigation is necessary to determine if there are regional differences in student legal issues.

3. A qualitative study should be conducted with administrators of higher education institutions affiliated with the Coalition of Urban and Metropolitan universities. Legal survey instruments cannot discover the nuances of an interview.

4. Research should be conducted to determine the need for legal training of chief student affairs officers.

5. Research should be conducted that identifies legal education programs for individuals interested in the study of higher education law.

6. Research should be conducted concerning the legal education of chief legal affairs officers of metropolitan universities. What type of legal specialization may be required to be a successful university attorney?
7. Research should be conducted that determines student legal issues in the international arena of higher education. For example, do administrators of metropolitan institutions of higher education in the United States differ from metropolitan institutions in other countries?

8. Research should be conducted that identifies any differences in student legal issues of institutions of differing Carnegie classifications.

9. Research should attempt to identify faculty perceptions of student legal issues in metropolitan institutions of higher education.

10. Further investigation is necessary in order to determine knowledge of student legal issues and job performance. Do higher education administrators benefit from knowledge of student legal issues?

11. Legal conferences of student affairs administrators should be examined with regard to student legal issues. Are these conferences offering sessions, led by qualified individuals, that would actually benefit chief student affairs officers.

12. Chief student affairs officers should meet more often with university legal counsel in order to better understand future student legal issues.
APPENDIX A

THE COALITION OF URBAN AND

METROPOLITAN UNIVERSITIES
<table>
<thead>
<tr>
<th>University Name</th>
<th>University Name</th>
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<tbody>
<tr>
<td>Boise State University</td>
<td>Brooklyn College</td>
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<tr>
<td>California State University-Fresno</td>
<td>California State University-Long Beach</td>
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<td>California State University-Sacramento</td>
<td>Chicago State University</td>
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<tr>
<td>Cleveland State University</td>
<td>Georgia State University</td>
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<tr>
<td>Indiana University-Purdue University</td>
<td>Metropolitan State University of Denver</td>
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<tr>
<td>Northern Kentucky University</td>
<td>Pennsylvania State at Harrisburg</td>
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<tr>
<td>Portland State University</td>
<td>San Diego State University</td>
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<tr>
<td>Southwest Missouri State University</td>
<td>Texas Women's University</td>
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<tr>
<td>Towson State University</td>
<td>University of Alabama at Birmingham</td>
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<td>University of Arkansas at Little Rock</td>
<td>University of Central Florida</td>
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<td>University of Central Oklahoma</td>
<td>University of Houston System</td>
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<td>University of Illinois at Chicago</td>
<td>University of Louisville</td>
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<td>University of Maryland System</td>
<td>University of Massachusetts at Boston</td>
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<td>University of Missouri-Kansas City</td>
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<td>University of North Carolina-Charlotte</td>
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<td>University of Texas at San Antonio</td>
<td>University of Toledo</td>
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<td>University of Wisconsin-Parkside</td>
<td>Virginia Commonwealth University</td>
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<tr>
<td>Washburn University</td>
<td>Weber State University</td>
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<tr>
<td>Wichita State University</td>
<td>Wright State University</td>
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</table>

June 5, 1996

<NAME>
<ADDRESS>
<CITY>, <STATE> <ZIP>

Dear <NAME>:

Here at the University of North Texas we currently have underway a national study of legal issues likely to confront institutions such as yours during the next decade and we need your assistance.

Enclosed is a questionnaire we are asking you and a sample of your counterparts around the country to complete. The questionnaire solicits your opinion regarding a number of important student legal issues likely to confront metropolitan universities during the next 10 years.

The enclosed self-addressed and postage-paid envelope is for your use after you have completed the questionnaire. Please note that nowhere on the questionnaire is your identification called for. If you wish to receive a copy of our findings, please indicate so on the last page of the questionnaire.

It will greatly facilitate our work if you return the completed questionnaire by June 21. A very special note of thanks for your cooperation. Without your cooperation and that of your colleagues around the country, our research would not be possible. Should you have any questions regarding this study we are available at (817)565-2892.

Sincerely,

D. Barry Lumsden  Russell K. Elleven
Professor of Higher Education  Research Associate
APPENDIX C

THE INSTRUMENT
PART ONE

Demographic Information

In responding to the questions below, please either circle the appropriate letter/number or write in the space provided.

1. Gender  (a) Female  (b) Male

2. Highest Degree Held

3. For how many years have you been in your current position?

4. For how many years have you been employed at your institution?

5. Have you ever been directly, personally, and/or tangentially involved in litigation associated with your present position in higher education?
   (a) Yes. If yes, in what capacity?
   (i) ______ As an expert witness
   (ii) ______ As a plaintiff (individual who initiated and brought action)
   (iii) ______ As a defendant (person against whom action was brought)
   (iv) ______ Other: ____________________________ (Please Define)
   (b) No. ______

6. Please mark in the space provided the point which best reflects your personal legal philosophy.

   Liberal*  __________  __________  __________  __________  __________  __________  __________  Conservative**

   -3  -2  -1  0  +1  +2  +3

* An individual who expands the meaning of a statute to meet cases which he/she believes are within the spirit of the law.
** A strict constitutionalist who recognizes nothing that is not expressed in the statute and admits no other considerations or implication.
PART TWO
Legal Survey

Following are nine areas within student affairs which have been heavily litigated in the past five years. Each area is subdivided into its legal components (issues).

Please consider each issue presented carefully and separately, using the scale indicated, circle the number which best reflects your judgment as to the degree of probability of that issue becoming a legal challenge to your institution sometime during the next 10 years. An optional section, "other(s)", is also included with each area to allow you to make a subjective input to this survey. You are encouraged to use it to add other issues to the appropriate individual areas.

PROBABILITY OF LEGAL CHALLENGE IN THE NEXT 10 YEARS

What is your estimate of the probability of your institution being legally challenged on this issue during the next ten years?

<table>
<thead>
<tr>
<th>Less Than 10%</th>
<th>10%-30%</th>
<th>30%-50%</th>
<th>50%-70%</th>
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ADMISSIONS

Admission Criteria

Affirmative Action

Reverse Discrimination

Sex/Age Discrimination

Other(s) (Please List)

1. ____________________________________________ (1) (2) (3) (4) (5) (6)
2. ____________________________________________ (1) (2) (3) (4) (5) (6)
3. ____________________________________________ (1) (2) (3) (4) (5) (6)
What is your estimate of the probability of your institution being legally challenged on these issues during the next 10 years?

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ATHLETICS

Recruiting and Scholarships
Continuing Student Eligibility
Tort Liability (i.e. injuries occurring during athletic activities)
Title IX
Other(s) (Please List)
   1. ____________________________
   2. ____________________________
   3. ____________________________

FINANCIAL AID

Denial or Termination of Aid
Discrimination in the Award of Aid
Veteran's Benefits
Linking Financial Aid to Draft Registration
Defaulting Student Loans
Other(s) (Please List)
   1. ____________________________
   2. ____________________________
   3. ____________________________
What is your estimate of the probability of your institution being legally challenged on these issues during the next 10 years?

<table>
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<th>Less Than 10%</th>
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**TORT LIABILITY**

Defamation (Libel or Slander)  
(1) (2) (3) (4) (5) (6)

Negligence (Duty to warn and protect)  
(1) (2) (3) (4) (5) (6)

Fraud (False representation or inducement)  
(1) (2) (3) (4) (5) (6)

Other(s) (Please List)

1. ____________________________  
   (1) (2) (3) (4) (5) (6)

2. ____________________________  
   (1) (2) (3) (4) (5) (6)

3. ____________________________  
   (1) (2) (3) (4) (5) (6)

**STUDENT ORGANIZATIONS**

Recognition (of the organization)  
(1) (2) (3) (4) (5) (6)

Activities (of the organization)  
(1) (2) (3) (4) (5) (6)

Student Newspapers  
(1) (2) (3) (4) (5) (6)

Funding of Religious Organizations  
(1) (2) (3) (4) (5) (6)

Other(s) (Please List)

1. ____________________________  
   (1) (2) (3) (4) (5) (6)

2. ____________________________  
   (1) (2) (3) (4) (5) (6)

3. ____________________________  
   (1) (2) (3) (4) (5) (6)
What is your estimate of the probability of your institution being legally challenged on these issues during the next 10 years?

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**STUDENT HOUSING**

- Required Residence
- Rules and Contracts
- Solicitation (Vendors)
- Search and Seizure
- Other(s) (Please List)

1. ____________________________ (1) (2) (3) (4) (5) (6)
2. ____________________________ (1) (2) (3) (4) (5) (6)
3. ____________________________ (1) (2) (3) (4) (5) (6)

**ACADEMIC AFFAIRS**

- Academic Standards
- Dismissals
- Academic Dishonesty
- Catalogs and Publications as Contracts
- Consensual Sexual Relationships with Faculty
- Other(s) (Please List)

1. ____________________________ (1) (2) (3) (4) (5) (6)
2. ____________________________ (1) (2) (3) (4) (5) (6)
3. ____________________________ (1) (2) (3) (4) (5) (6)
What is your estimate of the probability of your institution being legally challenged on these issues during the next 10 years?

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**TUITION**

Criteria Used to Determine Residency

Annual Charges (Increases Year-to-Year)

Other(s) (Please List)

1. ________________________
   (1) (2) (3) (4) (5) (6)

2. ________________________
   (1) (2) (3) (4) (5) (6)

3. ________________________
   (1) (2) (3) (4) (5) (6)

**EMERGING STUDENT LEGAL ISSUES**

Health Risks on Campus

Alcohol Liability

Course Content Accountability

Cyberspace (Internet) Issues

Disabled Students

Off Campus Criminal Offences

Sexual Orientation

Other(s) (Please List)

1. ________________________
   (1) (2) (3) (4) (5) (6)

2. ________________________
   (1) (2) (3) (4) (5) (6)

3. ________________________
   (1) (2) (3) (4) (5) (6)
## PREPARATION FOR THE FUTURE

How are you preparing for future student legal issues that may confront administrators of metropolitan institutions of higher education?

<table>
<thead>
<tr>
<th></th>
<th>(Yes)</th>
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<tbody>
<tr>
<td>Legal Conferences</td>
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<td>Student Affairs Conferences</td>
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<td>Continuing Formal Education</td>
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<tr>
<td>I Do No Formal Preparation</td>
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</table>

Other(s) (Please List)

1. __________________________
2. __________________________
3. __________________________

---

THANKS FOR YOUR COOPERATION

D. Barry Lumsden
University of North Texas
P.O. Box 13857
Denton, TX 76203
APPENDIX D

THE FOLLOW-UP LETTER
June 29, 1996

<TITLE><FIRST_NAME><LAST_NAME>
<INSTITUTION>
<ADDRESS>
<CITY>, <STATE> <ZIP>

Dear Dr. <LAST_NAME>: 

We recently sent you a questionnaire regarding student legal issues affecting higher education institutions such as yours. Your response is very important to us, so we are making another appeal for you to reply. Another questionnaire is enclosed in case you have misplaced the original document.

Only a small number of higher education administrators have been asked to participate in this study. Your responses will be kept in strictest confidence and will be used only in combination with the other respondents.

Please use the enclosed postage-paid envelope to mail your completed questionnaire by Friday, July 12, 1996. Your assistance is greatly appreciated. Without your cooperation the completion of our research will not be possible.

Sincerely,

D. Barry Lumsden  
Professor of Higher Education

Russell K. Elleven  
Research Associate
APPENDIX E

THE DECLARATION OF

METROPOLITAN UNIVERSITIES
DECLARATION OF METROPOLITAN UNIVERSITIES

A number of presidents of metropolitan universities have signed the following declaration. We, the leaders of metropolitan universities and colleges, embracing the historical values and principles which define all universities and colleges, and which make our institutions major intellectual resources for their metropolitan regions,

- reaffirm that the creation, interpretation, dissemination, and application of knowledge are the fundamental functions of our universities;
- assert and accept a broadened responsibility to bring these functions to bear on the needs of our metropolitan regions;
- commit our institutions to be responsive to the needs of our metropolitan areas by seeking new ways of using our human and physical resources to provide leadership in addressing metropolitan problems through teaching, research, and professional service.

Our teaching must:
- educate individuals to be informed and effective citizens, as well as capable practitioners of professions and occupations;
- be adapted to the particular needs of metropolitan students, including minorities and other underserved groups, adults of all ages, and the place-bound;
- combine research-based knowledge with practical application and experience, using the best current technology and pedagogical techniques.

Our research must:
- seek and exploit opportunities for linking basic investigation with practical application, and for creating synergistic interdisciplinary and multidisciplinary scholarly partnerships for attacking complex metropolitan problems, while meeting the highest scholarly standards of the academic community.

Our professional service must include:
- development of creative partnerships with public and private enterprises that ensure that the intellectual resources of our institutions are fully engaged with such enterprises in mutually beneficial ways;
- close working relationships with the elementary and secondary schools of our metropolitan regions, aimed at maximizing the effectiveness of the entire metropolitan education system, from preschool through post-doctoral level;
- the fullest possible contributions to the cultural life and general quality of life of our metropolitan regions.

Source: Metropolitan Universities: An Emerging Model in American Higher Education  
Denton, TX: University of North Texas Press, 1995
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