

A STUDY OF LEGAL INFORMATION NEEDS
OF PUBLIC HIGHER EDUCATION ADMINISTRATORS
IN THE DISTRICT OF COLUMBIA

BY

John Edward Milton Green, Jr.

Dissertation submitted to the Graduate Faculty of the
Virginia Polytechnic Institute and State University in
partial fulfillment of the requirements for the degree

DOCTOR OF EDUCATION

in

Administration

APPROVED:

~~_____~~
M. David Alexander, Chairman

~~_____~~
Lloyd Andrew

~~_____~~
Houston Conley

~~_____~~
Beverly Cassara

~~_____~~
Maribelle Rockey

August, 1975

Blacksburg, Virginia

ACKNOWLEDGMENTS

The researcher thanks all of the members of his advisory committee for the assistance they gave in directing this study. He is especially appreciative of the generous guidance and assistance of Dr. M. David Alexander, particularly when the going got rough.

A special debt of thanks is extended to Ms. Doris M. Demery and Mr. Lawrence Hester, who were ever ready to assist in the coordination and collection of survey data and consultants' responses.

The researcher will forever owe a debt of gratitude and appreciation to his wife, children, mother, and grandfather for their patience, understanding, and necessary moral and spiritual support during this undertaking.

Finally, the researcher is deeply grateful to Dr. Milford A. Vaughn for his friendship and assistance in the many logistic and administrative problems encountered during the study.

TABLE OF CONTENTS

	Page
ACKNOWLEDGMENTS	ii
LIST OF FIGURES	v
LIST OF TABLES	vi
Chapter	
1. INTRODUCTION	1
PURPOSE OF THE STUDY	6
NEED FOR THE STUDY	6
SIGNIFICANCE OF THE STUDY	10
RESEARCH QUESTIONS	11
LIMITATIONS OF THE STUDY	11
ASSUMPTIONS	12
DEFINITIONS	12
OVERVIEW	15
2. REVIEW OF LITERATURE	16
THE CHANGING CAMPUS	16
LEGAL ISSUES IN HIGHER EDUCATION	20
TRENDS IN HIGHER EDUCATION LAW	24
CONTRACTING PROCESSES	26
SURVEY METHODOLOGY	28
SUMMARY	34
3. RESEARCH METHODOLOGY	36
SURVEY POPULATION	36
INSTRUMENT	37

	Page
COLLECTION OF THE DATA	39
TREATMENT OF THE DATA	39
LIMITATION OF THE METHODOLOGY	41
SUMMARY	41
4. ANALYSIS OF RESEARCH	45
ANALYSIS OF SURVEY DATA	45
INTERPRETATION OF SURVEY DATA	54
DEVELOPMENT OF A TOPIC OUTLINE	72
CONCLUSIONS REGARDING RESEARCH QUESTIONS ..	104
SUMMARY	106
5. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS FOR FURTHER STUDY	108
SUMMARY	108
CONCLUSIONS	111
RECOMMENDATIONS FOR FURTHER STUDY	112
BIBLIOGRAPHY	116
APPENDIXES	
A. QUESTIONNAIRE	120
B. VALIDATION LETTER	131
C. FOLLOW-UP LETTER	132
D. LETTER FROM SPECIAL ASSISTANT TO BOARD OF TRUSTEES	133
E. TOPIC OUTLINE - PANEL RESPONSES	136
F. FINAL TOPIC OUTLINE	147
G. MODEL REQUEST FOR PROPOSAL - PANEL RESPONSES.	153
VITA	185
ABSTRACT	

LIST OF FIGURES

Figure	Page
1. Description of Panel Reviewing Final Topic Outline	43
2. Selected Specialists Reviewing Model Request for Proposal	44

LIST OF TABLES

Table	Page
I. Results of Questionnaire, Section I	46
II. Results of Questionnaire, Section II, Questions 1 through 7	50
III. Results of Questionnaire, Section II, Question 8	53
IV. Results of Questionnaire, Section III	55
V. Distribution by Mode of Responses to Questionnaire, Section III	60
VI. Selected Legal Topics and Elements for Inclusion in a Study and Handbook	65

Chapter I

INTRODUCTION

The three public higher education institutions in the District of Columbia, namely Federal City College, the District of Columbia Teachers College, and the Washington Technical Institute, comprise a system that is relatively young in comparison to its neighboring states and comparable-sized communities. Although the District of Columbia Teachers College dates back to 1949, and its predecessor institutions (Minor and Wilson Normal Schools) had existed for nearly 80 years, little need existed for a basic comprehension of college and university law by the college personnel. These institutions were exclusively teacher training institutions, practiced a selective recruitment and admissions policy and enrolled fewer than 500 FTE students.

With the passage of the 1966 Public Higher Education Act for the District of Columbia, the one college ballooned to a 3-college system offering comprehensive liberal arts, professional, technical, trade, and graduate programs. Student FTE enrollment in 1967 was about 500 FTE; however, by 1973, just six years later, the count had risen to

nearly 10,000 FTE students (Washington, 1973). This rapid increase in numbers of students together with a student body which was comprised primarily of entering freshmen from first generation college families (Randolph, 1970) created a situation that demanded the greatest of competence in all aspects of administration, instructions, student affairs and other key areas of operations including their legal implications. Unfortunately, many faculty, administrators, policy directors, government officials and even some members of the Congressional Committees affecting the colleges had little or no knowledge of college and university legal principles.

According to Newton Edwards (1971) student and university relations nationwide hit a new low in the 1960's, and the need for legal training of college administrators became a matter of attention and urgency. Edwards also indicated that in the 1970's relations among the students, staff, faculty and community were drastically changing; and many of the questions of the 60's were being answered by the courts.

John Brubaker (1971) stated that since 1960 the courts have increasingly been called upon to arbitrate matters affecting educational policy. He concluded that it was time that those responsible for policy and decision making in higher education become acquainted with what the courts were saying and had been saying about the academic

community.

Alexander and Solomon (1972) wrote that at a time when non-student activists use the campus as a forum for their ideology, when professors join students and non-students in protests against the administration, and when new sexual mores replace an older code, the college administrator must have more than superficial acquaintance with the law governing higher education.

Recent applications of the Civil Rights Act of 1871 by the Federal courts in educational matters exemplified the trend in educational litigation and signals the need for administrators to be well-versed in such legal matters.

The Civil Rights Act, sometimes called the "Ku Klux Act," was enacted to enforce the provisions of the Fourteenth Amendment to the Constitution in preventing discrimination against Blacks. Recently, more liberal interpretations of the Act have found application against school administrators in cases involving both desegregation and due process in dismissal of teachers and students. Section 1983 of the Act states:

"Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." (p.250, 42U.S.C.A.1983)

In 1961, the U. S. Supreme Court, in *Monroe v. Pape*, concluded that police officers could be held personally liable in damages for violating a citizen's constitutional rights. The police ransacked Monroe's home without a warrant and detained him at the police station on "open" charges for 10 hours. The court declared the policemen to be within the scope of the 1871 Act but not the municipality. From the precedent of *Monroe v. Pape*, one might assume that school boards are not "persons" within the meaning of the statute. However, the United States Court of Appeals, Fifth Circuit, held to the contrary in *Harkless v. Sweeny Independent School District* (1970).

This appeal involved an action brought by 10 Black teachers alleging that failure of the school district to renew their teaching contracts when the school system desegregated denied them rights secured by the Fourteenth Amendment. They sought reinstatement and back pay. The appeal court concluded that the school district, trustees and superintendent were all "persons" within the meaning of the 1871 Civil Rights Act and ultimately reversed the lower court's decision against the teachers. The United States Supreme Court, on appeal, eventually reversed the decision of the Fifth Circuit Court of Appeals.

In the case of *Tinker v. Des Moines Community School District* (1969), the court allowed injunctive relief against the school board where the 1871 Act was a basis

for challenge. More recently, a New Jersey community college professor was reinstated following a Superior Court ruling that also granted \$104,000 in damages (Washington Post, May 2, 1974). The ruling found that the college had violated the teacher's civil rights under the 1871 Civil Rights Act by denying her a hearing or notification of termination. The punitive damage amount was assessed equally upon the president of the college and six (6) trustees for recommending and approving the termination of the teacher's employment contract.

It seems unquestionable, then, that school administrators at all levels and board members as individuals do come within the scope of the Act. In *McLaughlin v. Tilendis* (1968), a non-tenured teacher was unconstitutionally dismissed solely because of his membership in a union. He sought damages against the superintendent and the board members under the 1871 Act and was awarded such. The board members claimed immunity under the Illinois Tort Immunity Act, but the court disallowed it, ruling that the state act could not protect the board against action grounded on a federal statute.

M. M. Chambers (1972) pointed to the trend in higher education law when he wrote that freedom of the press, the right to due process, desegregation cases, and the right to petition for redress of grievances have created scores of federal court decisions during the previous five years,

whereas prior to that time, the presence of such issues was extremely rare.

PURPOSE OF THE STUDY

At this time there appears to have been little if any concentrated effort to research, analyze, evaluate, interpret and publish information pertaining to the legal aspects of public higher education in the District of Columbia.

The purpose of this study was divided into two main elements as follows:

a. To identify the legal information needs of the District of Columbia public higher education administrators; and

b. To develop a model request for proposal with a performance specification suitable for inclusion in a public contract which ultimately would result in a study and handbook of the legal aspects of public higher education in the District of Columbia.

NEED FOR THE STUDY

The author of this work was employed at Federal City College for more than four years. In the capacity of a financial manager, there were several occasions for

special assignment to the Office of the College President or to the Board of Higher Education for the purpose of conducting special surveys or investigations of administrative problems or irregular actions. Many of these assignments involved complaints or activity that ultimately led to action in court or judicial hearings within the college system. From these experiences, it became quite clear that college administrators, particularly trustees, spent an extraordinary amount of time and effort resolving appeals, attending court sessions or engaging in other activities that could be directly related to the lack of administrator knowledge of appropriate aspects of higher education law.

Legal problems still exist abundantly within the public college system of the District of Columbia. As of this writing the active and pending cases could be classified into the following primary categories:

- a. Admission Policies
- b. Procedural Due Process (Faculty)
- c. Employment Contracts (Administrative and faculty)
- d. Classroom Grading Procedures
- e. Legal Responsibilities of Federal Project Managers (Federal grants and contracts)
- f. Other Student Actions

Information made available by the District Government Corporation Counsel's Office indicated that there had been

an over-all decrease in the total number of cases in the past year; however, the number of student actions had increased. Further, it appears that a large percentage of public college cases are either settled out of court or lost by the colleges, due to the lack of understanding of the basic legal requirements of the case by college personnel.

Another reason given for the large percentage of settlements in the past was that policies, rules or regulations governing the college system were either vague, ambiguous, or simply nonexistent. It appears that recently much improvement has been made in developing policies and procedures, both at the trustee and institutional levels. However, for many kinds of legal actions, particularly student initiated, there is no District of Columbia precedent. In these instances, the District's legal office has depended upon civil case law. The legal office of the District of Columbia further indicated that actions based upon federal statutes or the Constitution of the United States were claimed in more than 50 percent of the college cases processed by that office.

At the institution and trustee levels, there was serious concern over the recently passed "Family Educational Rights and Privacy Act of 1974" (Public Law 93-380). This Act, which was intended to protect a student's

privacy, is viewed by many educators and administrators as likely to cause invasion of that privacy and may have consequences that Congress may not have intended. The Act calls for withholding of federal funds from any institution of higher education which prevents its students from inspecting and receiving any official documents or data that are incorporated into each student's file and are intended for school use or to be available to parties outside of the school. Several problems were immediately identified by administrators and legal experts (NACABUA, 1974). Among them were the following:

a. Students receiving financial aid would have access to confidential information of parents; therefore, the rights of parents have been identified.

b. Students receiving psychiatric care would have access to psychiatrists' records.

c. Parents could receive no information from college about their children without their children's consent.

As a result of the administrator and legal input, the regulations were revised to protect the confidential information of parents, to recognize the right of parents to receive information about their children without the children's permission, and to separate medical records from the students' educational file (Education Daily, 1975).

While faculty rights have long been a focal point for

trustees' attention in the District's public college system, student rights have quickly become the new center of attention. In his writing of March 4, 1975, Clifton Smith, Special Assistant to the Board of Higher Education of the District of Columbia, advised the Board of recent Supreme Court actions in the area of student rights. (See Appendix D.) He recommended that colleges under the control of the Board move rapidly to develop and recommend procedures under which constitutional guarantees pertaining to student dismissals and temporary suspensions would be expressly stated and adhered to.

In the District of Columbia, the education system is still developing; and the dynamics of change demand that parties involved know where, how, why and what roles they can assume in the process (Alexander, 1973).

SIGNIFICANCE OF THE STUDY

It was anticipated that the results of the study could help: (a) colleges to determine what needs to be done in their pre-service or in-service training programs relative to the area of higher education law; (b) higher education system personnel to determine what aspects of higher education law should be incorporated in a study and ultimately in a handbook; (c) District government and

higher education procurement specialists to prepare appropriate documentation required to contract for the study and handbook; and (d) other educational, administrative and legal organizations of the District of Columbia Government in the development, implementation and revision of planning and programming in the area of higher education policy and civil law.

RESEARCH QUESTIONS

The research questions of this study were threefold:

- a. Do administrators in the District of Columbia public higher education system feel that they need additional legal information for improved job-related decision making?
- b. Can college administrators indicate specifically their needs or desires for legal information?
- c. Can legal information needs be converted into a public contract performance specification?

LIMITATIONS OF THE STUDY

- a. This study was limited to the District of Columbia public higher education institutions; namely, Federal City College, District of Columbia Teachers College, and the Washington Technical Institute.

b. This study was limited to the major administrators of the public colleges of the District of Columbia.

c. This study was limited to the identification of legal information needs and the development of a contract performance specification. The accomplishment of the specification through appropriate case law research and delivery of a legal information handbook falls outside of the purpose of this study.

ASSUMPTIONS

The following were assumed for the purpose of this study:

a. That questionnaire responses from all participants are of equal value with no weighting factors assigned to classes or groups of administrators.

b. That the delivery of the legal research and resultant handbook would occur through the instrument of a public contract.

DEFINITIONS

The following definitions are operationalized for this study:

Appeal - The complaint to an upper court of an injustice done or error committed by an inferior court

whose judgment or decision the court above is called upon to correct or reverse.

Court of Appeal - A court having jurisdiction of appeal and review. This court, except in special cases where original jurisdiction is conferred, is not a trial court or court of first appearance.

Constitutional Right - A right guaranteed to the citizens by the Constitution and so guaranteed as to prevent legislative interference therewith.

Case Law - The law of a particular subject as evidenced or formed by the adjudged cases, in distinction to statutes and other sources of law.

Civil Rights - Rights pertaining to a person in virtue of his citizenship in a state or community. They include the rights of property, marriage, protection of laws, freedom of contract, trial by jury, etc. Also, this term is applied to certain rights secured by citizens of the United States by the Thirteenth and Fourteenth Admendments to the Constitution and by various Acts of Congress made in pursuance thereof.

Contract - A promissory agreement between two or more parties that creates, modifies, or destroys a legal relation.

Performance Specification - A description of work to be

done which specifies the end results desired. It is the responsibility of the supplier of services to determine how the purpose will be accomplished.

Procurement - All functions that pertain to the obtaining of supplies, materials, facilities and services, including description but not determination of requirements, selection and solicitation of sources, preparation and award of contracts and all phases of the contract administration.

Redress - The receiving of satisfaction for a wrong or damage sustained.

Request for Proposal (RFP) - A document issued to public or private organizations or private individuals for the purpose of soliciting offers to provide items or services under the terms of an agreement to be negotiated pursuant to the authority of the agency securing the items or services.

Specification - A detailed and particular enumeration of the various elements involved in the construction, manufacture or conduct of goods and services.

Statement of Work - A description of the items or services which shall be provided or accomplished. The description within itself may be complete, or it may incorporate or reference other documents.

OVERVIEW

The literature pertinent to the study is reviewed in Chapter 2 and is divided into five sections. The sections are "The Changing Campus," "Legal Issues in Higher Education," "Trends in Higher Education Law," "Contracting Processes," and "Survey Methodology."

Chapter 3 contains the methodology, including the survey population, the instrument, the collection and treatment of data, and the limitations of the methodology. Chapter 4 includes the analysis of the survey data and a description of the development of the model performance specification. Chapter 5 contains the summary, conclusions, and recommendations for further study.

Chapter 2

REVIEW OF LITERATURE

A review of the literature concerning changes that have occurred on college campuses over the last decade revealed an interesting parallel with sociological and cultural changes in America generally. Literature pertaining to contemporary legal issues in higher education indicated a movement toward expression of individual rights and accountability of educational administrators. Trends in higher education law appeared to complement the issues and also revealed a weakening of the grip of autonomy enjoyed for so long by educational institutions.

Review of the literature in the field of contracting and purchasing concentrated on the development and application of the performance specification and revealed a growing trend toward the use of the relatively new technique of purchasing. Finally, research of methodology for the conduct of demand identification and need assessment concentrated primarily in the educational, business, and scientific domains. The range of information spread from business marketing practices to educational planning to scientific forecasting.

THE CHANGING CAMPUS

Calvin Lee (1970) wrote that each college generation has its own distinguishing character, tone or guiding belief. According to Lee, the classes of the Twenties were affected by the Jazz Age and Prohibition, giving them a legend of being mad, bad, and glad. The Depression imposed a tone of soberness on the classes of the Thirties. Following World War Two, the G.I.s upset all campus tradition by crowding the campuses with wives, children, and even pets. The Fifties' classes were known as the Silent Generation dominated by McCarthyism, the Cold War, Korea, and the Organization Man. In describing the Sixties, Lee wrote that it was a very complex and active period which included commitment and dissent.

In concluding, Lee envisioned three sets of issues that would dominate the concerns of students in the Seventies. The first issue would be injustice, whether it be racial or simply the death of innocent human beings; the second issue would be concern over the depersonalization of American life; the third issue would be a cry for relevance and an understanding between the scientists and humanists.

Daniel Yankleovich (1972) discussed the changing values on campus and traced the changes that occurred between 1965 and 1971. Among his more significant observations were the following:

a. Radical political values and lifestyle values which went hand-in-hand since the mid-1960's had, by 1971, begun to go their separate ways.

b. The mood of personal despair and depression felt by many students prior to 1970 was largely dissipated.

c. A majority of students believed that the real power in the country was vested in giant institutions rather than public opinion, Congress, or the President.

d. Over-all, there was less polarization among the students than in the previous few years.

e. Student views on what was morally right or wrong had changed by 1971. More students thought it was more immoral to collect welfare when one is capable of working than believed it is morally wrong to pay one's way through school by selling dope.

f. Students felt that landlords, war criminals, tax evaders and polluters would receive a fair trial and due process of law, while Blacks, antiwar leaders, dissenting G.I.s and homosexuals would not be assured a fair trial.

g. There was a substantial increase in the number of students who believed that the ceremony of marriage was obsolete and unnecessary.

A massive revulsion against the idea of violence had taken place, but there was more student acceptance of tactics dealing in overt violence, such as blockades,

ultimatums, and sit-ins.

Yankelovich concluded by writing that the changes he identified reflected a culture in transition and that students would seek to blend old values with new, youthful impulses with adult concerns, and old rites of passage with the desire to be free of older traditions and ceremonies.

Immanuel Wallerstein (1969) provided an interesting background of the collegiate institution's historical role in the national social change. He indicated that institutions of Europe and North America had played almost no role in the struggle over class distribution of rewards. The institutions of the nineteenth century were largely bastions of the upper classes or a mechanism of social mobility for a handful of exceptionally gifted persons of a non-upper-class social background.

Wallerstein also wrote that recently the role of the institutions had become, by contrast, a central one in two respects. First, assignment to key occupational positions in society was largely determined by graduation from the universities. Hence, admission rates of various ethnic groups in various parts of the university was of prime importance to the groups. Second, the universities have become important property owners and as such find themselves in direct conflict of interest with the urban peers

who were primarily the members of lower-ranking ethnic groups.

Wallerstein concluded that these social issues were far from being resolved, that they were serious as well as significant, and that the university itself may be the crucial and appropriate forum for their resolution.

LEGAL ISSUES IN HIGHER EDUCATION

In discussing student rights, D. Parker Young (1973) indicated that students did not leave their constitutional guarantees at the campus gate, nor did they acquire special privileges by virtue of their student status. He indicated that according to the United States Supreme Court, students have the right to demonstrate as long as they do not interfere with on-going activities of the institutions or the rights of others and also do not engage in the destruction of property. In attempting to curb student demonstrations, the burden is upon the institution to show that the actions of the students are unlawful in that they materially either disrupt on-going activities, interfere with the rights of others, or destroy property. Young cautioned against any blanket censorship on speech or assembly and indicated that the right to free speech and assembly had become serious issues on the campus. Student records and consideration of their

privacy and confidentiality was identified as another serious issue.

Robert Bickel (1973) discussed the problem of drug abuse on the campus and the provisions of the Fourth Amendment to the Constitution which guarantees security against unreasonable search and seizure. He indicated that distinguishing which searches and seizures are viewed as unreasonable is often difficult and that the legal complexities of the question make cooperation between the institutions and the local law enforcement officials mandatory.

Bickel emphasized the fact that administrators must be aware of the risk of violations of drug abuse statutes by students and should be cautious to counterbalance their sympathy for drug users with their possible liability for suppression or withholding of evidence pertaining to such usage which might lead to criminal conviction. Another point raised by Bickel was that administrators must be fully aware of the jurisdiction and authority of local law enforcement officials and university security officers. He concluded by indicating that civil liability of institutional officials for injury resulting from drug abuse by students on campus has become another issue but for the most part remains undetermined by the courts.

Stephen Slepian (1973) discussed the *Sindermann v.*

Perry and Roth v. Board of Regents cases and the issue of faculty rights in employment. Slepian noted that as a result of the two cases, the Fourteenth Amendment's guarantee of procedural due process--including a hearing, notice of charges or cause, etc., prior to non-renewal--was held to be applicable to every terminated or non-renewed teacher who had a legitimate claim of entitlement to reemployment. He indicated that on the basis of these two cases, the only party not entitled to a hearing prior to non-renewal is the teacher who has no tenure, no continuing contract, no "property interest" assertable, no warranted fear of professional detriment, and who fails to assert that his non-renewal is based on his exercise of constitutional rights.

J. Ralph Beard (1973) predicted that higher education was on the verge of a real revolution with the advent of collective bargaining. Already, he indicated, the first step of a labor movement, organization, is well underway. The second step, collective bargaining, has had a strong beginning in private higher education. Due to the nature of public institutions, the movement has been slower in that area, but nevertheless there is positive movement.

Further, Beard indicated that determining the scope of collective bargaining in the education field will be a

constant problem; i.e., what is included within the categories of wages, hours, and terms and conditions of employment? How will academic freedom and merit systems be debated and handled? These kinds of questions, according to Beaird, will pose special problems for multi-campus institutions. He concluded by indicating that the coming of collective bargaining and other incidence of normal labor management relations will present a new breed of problems that administrators must anticipate and be ready to meet.

Reynolds Seitz (1973) indicated the issue of possible legal liability of administrators when campuses are disrupted or closed by protesters. He suggested several precautions that administrators should exercise in guarding against libel, including the following:

- a. Drawing plans pertaining to the calling of local law enforcement officials to the campus.
- b. Being totally aware of what is to be said at the police briefing and what was actually said.
- c. Restraints against censoring student publications.
- d. Limits relative to search and seizure.
- e. Guarantees concerning privileged communications.

Seitz added that courts will note efforts of this advanced planning by administrative personnel. He concluded by indicating that rules set forth by administrators must not

be vague or ambiguous if they are to be effective.

TRENDS IN HIGHER EDUCATION LAW

D. Parker Young (1973) pointed out that the courts are not anxious to become college administrators; however, the closer institutional rule or administrative action comes to infringing upon basic constitutional rights, the more justification administrators must have for the rule or the action taken as a result of the rule. Young also indicated that in addition to relationships between students and institutions, court decisions had, by 1973, affected every facet of higher education administration.

M. M. Chambers (1972) wrote that freedom of the press, the right to due process, desegregation cases, and the right to petition for redress of grievances have created scores of federal court decisions during the previous five years, whereas prior to that time the presence of such issues was extremely rare.

Newton Edwards' (1971) discussion about the dynamics of school law is well noted. His indication of courts changing to keep in concert with the changes in current economic, political, social and cultural conditions gives credence to the need for updating, on a periodic basis, the legal knowledge base of administrators in educational systems.

John Brubaker (1971) wrote that prior to the Sixties the courts had been accustomed to examining questions of administrative authority rather than those of discretion. However, he pointed out that since that time the courts have been increasingly reviewing questions of discretion as well as authority. Brubaker wrote that this judicial change grew out of an accentuated public interest in civil liberties. According to Brubaker, the courts were now applying the principles of the First, Fifth and Fourteenth Amendments to the area of academic affairs as never before. The effect of these applications, wrote Brubaker, was to reduce the traditional autonomy of collegiate institutions.

M. Chester Nolte (1971) discussed trends in school law and administrator responsibility, pointing out that tort liability, racial discrimination, and religious freedom were fast growing areas of the law which merited closer attention. Nolte also indicated that employee negotiations and related problems were also important new areas of concern. Nolte concluded, too, that administrators had a responsibility to know the law, particularly as it affects their day-to-day decision making.

Robert E. Phay (1973) charted the increase in court cases pertaining to education, indicating that in 1965 The Yearbook of School Law, edited by Lee Garber, contained 318 cases, while the 1973 version contained over 600 cases.

Additionally, Phay indicated that in 1974 more decisions pertaining to education were handed down by the U. S. Supreme Court than in any other year in its history. These decisions reached into all major areas of school operations.

CONTRACTING PROCESSES

Ralph Bolton (1966) set forth the technique of systems contracting where the specifications consist primarily of several items or services to be acquired on a repetitive basis from a single vendor. In this situation, the performance of the products is not the main concern, due to standardization of the products among all vendors. The main concern here is one of cost savings, rapid delivery, and a single point of purchase. Bolton did not provide any insight into the specification writing and does not adequately discuss the contractor's performance with regard to stated objectives. This type of contracting is highly product-oriented and provides no application to this effort.

Donald Watson (1964) provided a thorough discussion of contract specification development, including the writing of performance specifications. He described performance specifications simply as those specifying the end results with little or no regard to procedures for

accomplishing results. Watson further indicated that performance specifications are appropriate when the specifier feels unqualified to act as an expert in a particular method of accomplishing a given result. The specifier, then, is only interested in performance. His discussion continued with a brief look at defining specifications through preliminary studies (identification of need) and concluded with the actual writing techniques of specifications and the monitoring of their effectiveness through evaluation of the finished product. Watson's guidance was directed primarily to construction and product-oriented manufacturing without direct application to studies or research activities. So, in this respect, although many of his principles or techniques could be utilized, he prescribed no complete approach applicable to this effort.

Currie and Wassen (1973) discussed the performance specification and its implications with turnkey construction projects indicating that the primary feature of turnkey contracting is that the contractor not only builds but generally also provides the design. The builder and the architect, in one fashion or another, in effect constitute a team supplying a completed end product to the owner. The owner developed performance criteria (specifications) which provide for the building requirements such as the quality and amount of space, aesthetics of the building,

and the suitability of the building to the particular location. By placing the design and construction responsibility on the contractor, it is assumed that the contractor in conjunction with the architect can develop a design with construction costs and budget in mind. In this example of performance specification usage, the application, again, is not complete enough for direct extraction and use in this study.

After discussions with contracting officers of the National Aeronautics and Space Administration and the District of Columbia Government, it was concluded by the author of this work that contract specifications could be developed using a wide range of methods, from careful consideration of scientifically based processes to mere brainstorming sessions by the persons needing the product or service. Definitive guidelines for developing performance specifications were either not available or extremely vague and insufficient.

SURVEY METHODOLOGY

The Delphi Forecasting Method (Weaver, 1973) was developed as an intuitive method for sharing expert forecasts about the immediate and long-term future. Recent applications to education involved educational experts focusing on future events, their probable dates of occurrence, the

desirability of such developments should they occur, and potential interventions. The results of these studies, using a modified Delphi process, have not resulted in a clear-cut successful application to educational administration. Due to the long period of time required for submission of a series of questionnaires and the apparent expense, this method was not pursued further.

The "Charrette" (Tonigan, 1972) seemed relatively new and economically prohibitive; additionally, this technique lends itself primarily to the planning and problem resolution activity. Basically, a charrette can be viewed as a heavily attended program-packed workshop where all interested participants openly discuss all aspects of a problem. The workshop could last from three to ten days, depending on the scope and nature of the problem. The meeting simply continues until the problem is resolved. While the process does not necessarily lend itself to needs assessment or demand identification, the process could be used.

The framework of marketing research follows generally the concept of "scientific" research; i.e., hypothesis, deduction, test, and analysis. In this respect, the methodology employed can provide a basic guide for many kinds of business product research. However, according to James Meyers (1969), marketing researchers usually deal with facts only and provide no means for verification.

Market research is considered to be somewhere on the continuum between informal investigation on one hand and scientific investigation on the other. Although market research employs similar instruments as would be required in the information identification portion of this study, there did not seem to be a general methodological framework available which applied wholly to this study.

Fred Schrier (1963) described marketing research as a complex structure, a cluster of ideas, concepts, methods and techniques. He further discussed some data which might be sought, including needs data and product image data emphasizing survey design methods. Schrier bypassed a detailed discussion of data collection and data definition and left the general impression that in marketing research there are no definitive guidelines, only approaches, from which the researcher may select.

Fred Kerlinger (1964) provided fairly complete descriptions of survey research and set forth the general methodology most clearly applicable to this project; that is to say, the information identification portion. Although Kerlinger proposed that mail questionnaires are the least generalizable due to low returns, he proposed no remedies.

M. Parten (1950) provided guidelines for securing larger returns which consist mainly of follow-up guides,

non-respondent interviews, etc. It did appear, however, that survey research techniques could be adequately used in this study along with portions of previously discussed techniques.

Pauline Young (1950) indicated that during the period of the 50's, the opposition to use of questionnaires was vociferous, primarily due to the question of validity and reliability. However, she cited the growing trend in their use by governmental units, business, and certain types of social research, as well as the capability of reaching large populations rapidly.

George Lundberg (1942) cited the reason for the existence and extensive use of questionnaires was the possibility of carrying out a survey with a small staff and, if the results were satisfactory, at a low cost. Lundberg also cited as a favorable consideration of questionnaires their impersonal nature and the avoidance of possible irrelevant stimuli involved in personal contact.

In discussing construction of questionnaires, Young (1950) cautioned on the wording used, particularly the avoidance of professional jargon. Young also cautioned against posing analytical questions (such as Why?) and assuming the informant has sufficient information or capability to respond in that context. Lundberg fully discussed the wording of questions and indicated that the

education and general intellectual level of the sample population from which answers are desired will determine to a large extent the degree of simplicity which should be employed. He stressed also that the physical and aesthetic appearance of the questionnaire is as important as any other item.

Young indicated a need for protesting and revision if necessary of questionnaires as a means of detecting and correcting mistakes on procedure before they exact heavy penalties in the form of low returns or replies lacking in reliability or validity. Lundberg's discussion was similar but went on to say that the inexperienced researcher is likely to be impatient with this preliminary work. He cautioned against this attitude and indicated that patience and care in this preliminary work might make all the difference between success and failure.

In discussing reliability and validity, Lundberg emphasized also the protesting of questionnaires. He would call it unreliable if it failed to bring in the same information when repeatedly submitted to the same person. As far as larger populations were concerned, he indicated a questionnaire is reliable if the percentage answering a certain way or the mean of the distribution and its standard deviation remain fairly stable when the questionnaire is resubmitted to the same population or to another

population that is highly similar.

In discussing validity of the questionnaire, Lundberg referred to the extent to which the results corresponded to some criterion which could be regarded as sufficiently valid to accept the agreement of the questionnaire results with it as being a test of the validity of the questionnaire results. In some cases, such criteria of a final sort are provided by subsequent events; i.e., election results are predicted by a questionnaire; the questionnaire is validated by the results of the election. He further stated the estimated validity of questionnaire results are more presumptive and inferential rather than direct. In the end, he concluded, the validity of all instruments will be determined by their usefulness in serving the discriminatory purposes for which they were invented.

Miller (1971) also provided a key to the use of scales to assist in quantitative measurement of responses. The following scales were reviewed by Miller:

- a. Thurstone Equal-Appearing Interval Scale
- b. Likert-Type Scale
- c. Guttman Scale-Analysis
- d. Scale-Discrimination Technique
- e. Rating Scales
- f. Latent Distance Scales
- g. Paired Comparisons

SUMMARY

The available information regarding changes in the campus scene, over time, have indicated a direct correlation with the socio-cultural changes occurring in society. These changes, to a high degree, appeared to be the underlying reasons for most of the issues debated on the campuses and settled, finally, in the courts. The major legal issues reviewed indicated a rapid movement toward increased administrative accountability and protection of individual civil rights.

The judicial system has also been involved in the change process and has found it necessary to review and, where necessary, to reorder its thinking about what had been the "norm" in educational law. The courts' movement toward reviewing questions of discretion was noted, as well as a resultant decrease in autonomy within the collegiate institutions.

It appeared also that existing methods and techniques found in specification development and various research methodologies could be utilized to provide a general set of guides adaptable to this study. However, there appears to be no singular approach or set of approaches which could provide the complete approach necessary to accomplish this entire project. Much of the existing information was useful, however, in the development of the specific design for identification of legal information and

development of performance specifications carried out in this study.

Chapter 3

RESEARCH METHODOLOGY

The purpose of this study as previously mentioned was twofold: (a) to ascertain the perceived legal information needs of District of Columbia public college administrators and (b) to develop a model RFP with a performance specification suitable for inclusion in a public contract for a study and handbook of legal aspects of public higher education in the District of Columbia.

The methodology for the survey of public college administrators and the development of the performance specification is presented in the following order: Discussion of (a) the survey population, (b) instrument, (c) collection of the data, (d) treatment of the data, and (e) summary.

SURVEY POPULATION

Robert Travers (1969) recommended that in solving local educational problems, surveys should be conducted to cover every member of the designated population. In such cases, he wrote, there are no sampling problems. In this study, the total population of all public college administrators at the division level and above

(administrative and academic division chiefs and above, as well as media and student life directors and above) was included in the survey. There were 25 participants located at Federal City, College, District of Columbia Teachers College, and the Washington Technical Institute. The distribution of participants, by position classification, follows:

<u>Position</u>	<u>Participants</u>
College President	2
Vice President, Academic Affairs	2
Vice President, Business and Finance	2
Academic Dean	12
Student Service Dean	1
Registrar	2
Admissions Director	1
Personnel Officer	2
Controller	1

INSTRUMENT

Ralph Jones (1973) indicated that methodology in research of education law is simply not available in any synthesized form. Further, he indicated that most research of this type had been performed by educators--not legal persons or specialists. Even before Jones, Travers (1969) wrote that if research in problems of educational administration was to develop similarly to

the development of research in the social sciences, more attention must be given to the development of instruments.

The survey instrument used to identify perceived legal information needs of the public college administrators was not a standardized instrument. In performing preliminary research of the study topic, it became apparent that no such complete instrument was readily available. Therefore, the researcher, using survey research guidelines as outlined by Kerlinger, Young, Parten, and Lundberg, developed a survey procedure which seemed to be suitable for the purpose of this study.

Dr. Michael Pearson, Assistant Professor of Sociology, Virginia Polytechnic Institute and State University, indicated that the questionnaire for this study should emphasize three data collection criteria:

- a. What information is generally known;
- b. What additional information is needed; and
- c. What information is desired.

The questionnaire developed for this study was divided into three sections to correspond with the data collection criteria as outlined by Pearson and described above. The questions used on the questionnaire were derived from either current literature pertaining to legal aspects of higher education or leading court cases as referred to in the literature. Legal topics identified

on the questionnaire were extracted without change of wording from either Alexander and Solomon (1972) or Alexander and Alexander (1973). The topics covered in these two publications were almost exclusively related to college and university administration, while most other literature concerned the entire range of education from pre-school to graduate work and provided topics not generally applicable to this work. The content and context of the questionnaire were reviewed and evaluated by the Honorable Harry Toussaint Alexander, Judge of the Superior Court of the District of Columbia. Students of the Virginia Polytechnic Institute - Federal City College Doctoral Program participated in the pre-testing of the questionnaire prior to the general questionnaire mailing to the survey population. Minor changes were made as appropriate.

COLLECTION OF THE DATA

During the Spring Quarter, 1975, the questionnaire was mailed to the total survey population of D. C. public college administrators. Telephone calls as well as follow-up letters and personal visits were used to increase the rate of return to 100 percent.

TREATMENT OF THE DATA

Once the completed questionnaires had been returned, they first were reviewed for completion of basic information. Since the questionnaire results were to be used to provide a qualified observation to a panel of specialists who would then develop a topic outline of legal information needs, using the survey data as a primary input, it was more meaningful to consider the qualitative aspects of the replies rather than their quantitative relationships. Additionally, the questionnaire was designed to cut across all groups of administrators by seeking only to develop a consensus of opinion as a result of the data analysis. However, for each appropriate question, the median, mode and range were determined.

The information from the questionnaire resulted in a priority rating of legal interests as expressed by the administrators surveyed as well as draft topic outline of those interests. The draft outline, consisting of major legal categories, sub-categories and elements, was then submitted to a panel of experts and specialists in higher education administration and law (See Figure 1). The acceptability of the draft topic outline by the panel, their recommended changes, and the resultant finalized topic outline of legal aspects is reported in Chapter 4.

The topic outline then became the basis for the development of the model performance specification. A

draft of the specification developed by the researcher was submitted to a second panel comprised of specialists in educational administration and contrasting processes (See Figure 2). This panel reviewed the draft specification for feasibility of the performance required, expected results, the consistency of the specification with the survey results, and recommended changes as appropriate. The final model performance specification was then developed. A description of the specification development is also contained in Chapter 4.

LIMITATIONS OF THE METHODOLOGY

This methodology has the following limitations:

- a. This study is limited to a non-standard questionnaire designed for use only in this study.
- b. This study is limited to the extent that there is no larger population to which results of this study can be generalized.

SUMMARY

The survey was conducted during the Spring Quarter, 1975, and included 100 percent of all major college administrators in the three public colleges of the District of Columbia. Two panels of experts comprised of educators,

administrators, contract specialists, practicing attorneys, and a trial judge were used to validate the legal topic outline and the resultant contract performance specification.

POSITION	INSTITUTION/ORGANIZATION
Judge	D. C. Superior Court
Special Assistant (Legal)	D. C. Board of Higher Education
Attorney	D. C. Corporation Counsel
Professor and Director of Experimental Programs	Federal City College
Treasurer	Illinois State Public Higher Education System

Figure 1. Description of
Panel Reviewing Final
Topic Outline

POSITION	INSTITUTION/ORGANIZATION
Attorney	Leftwich, Hudson and Davenport Law Offices, Washington, D. C.
Contract Specialist	D. C. Procurement Office
Contract Specialist	National Aeronautics and Space Administration
Director of Research	Transcendental Corporation, Washington, D. C.

Figure 2. Selected Specialists
Reviewing Model Request for Proposal

Chapter 4

ANALYSIS OF RESEARCH

A review of the data collection process indicated a high rate of questionnaire returns. Analysis and interpretation of the survey data gave some insight to the extent of the legal awareness of the survey group. Specific information pertaining to job-related legal information needs, as well as specific legal information desires, were also determined. The specific legal information needs, as identified by the survey group, were reviewed by a panel of legal and administrative experts.

The panel's comments and suggested modifications led to a comprehensive topic outline for a legal study and handbook. The topic outline was used by the researcher to develop a model request for proposal (RFP) which was subsequently reviewed and modified by a panel of experts in procurement. A final RFP, suitable for use in contracting for the study and handbook, was developed. Finally, the researcher provided conclusions relating to the basic research questions.

ANALYSIS OF SURVEY DATA

The data collection process was accomplished during the Spring Quarter, 1975. As a result of follow-up letters, telephone calls and personal visits to the

TABLE I. RESULTS OF QUESTIONNAIRE, SECTION I

Question	Correct Reply	Number and % Correct	Number and % Incorrect	Number and % Not Sure
1. Tort liability includes minor criminal acts.	False	13 (52%)	6 (24%)	6 (24%)
2. The 1871 Civil Rights Act was enacted to enforce the Fourteenth Amendment in preventing discrimination against Blacks.	True	8 (32%)	6 (24%)	11 (44%)
3. The 1871 Civil Rights Act has found new application against administrators primarily in cases involving discrimination and dismissal of administrative employees.	False	3 (12%)	10 (40%)	12 (48%)
4. Faculty and staff in the District of Columbia public colleges have government immunity and therefore are not liable for action in tort.	False	18 (72%)	3 (12%)	4 (16%)
5. Defamation by written communication is slander.	False	9 (36%)	12 (48%)	4 (16%)
6. In some states, truth is a defense for a defamation action.	True	15 (60%)	2 (8%)	8 (32%)
7. Generally, a college may suspend or expel a student when he commits a crime off campus, even though it does not have a direct and immediate impact on the school.	False	3 (12%)	16 (64%)	6 (24%)
8. The leading case in the area of student expulsion is considered to be Dixon v. Alabama State Board of Education (294 F.2d 150).	True	6 (24%)	1 (4%)	18 (72%)
9. The Fourth Amendment's prohibition against unreasonable searches and seizures, as applied to the states and their instrumentalities, is generally inapplicable to school searches.	False	5 (20%)	15 (60%)	5 (20%)

TABLE I. RESULTS OF QUESTIONNAIRE, SECTION I (cont'd.)

Question	Correct Reply	Number and % Correct	Number and % Incorrect	Number and % Not Sure
10. Generally, a teacher can be held liable for injuries which result from the sudden and unpredictable acts of students.	False	19 (76%)	2 (8%)	4 (16%)
11. A tenured teacher does not have a vested right in a particular position.	True	9 (36%)	10 (40%)	6 (24%)
OVER-ALL		108 (39%)	83 (30%)	84 (31%)

survey participants, a 100 percent return of questionnaires was experienced. The content quality of responses was such that no questionnaire was returned or in need of clarification by the researcher. Where appropriate, descriptive data analysis, including measures of central tendency, was accomplished.

The questionnaire used in this study is attached as Appendix A. Table I shows the results of Section I. This section of the questionnaire contained general statements pertaining to various aspects of college and university law. The aspects were selected for their apparent relevance to job decision-making, as well as their increased legal application and popularity of discussion among college administrators. This section attempted to ascertain what legal information was generally known by the survey participants.

Analysis of the Section I data revealed the following information:

- a. Only four (4) of eleven (11) questions were answered correctly by more than 50 percent of respondents.
- b. Over-all, only 39 percent of all answers were correct.
- c. Questions 4 and 10, which related primarily to instructional activity, received the greatest number of correct responses.

d. Question 3, which pertained to the basis for determining Boards of Trustees to be "persons" within the meaning of the Fourteenth Amendment, as well as ensuring due process for non-tenured faculty, produced more not sure replies than either correct or incorrect replies.

e. Question 8, pertaining to student expulsion, produced the greatest percentage (72%) of not sure replies.

f. Question 9, pertaining to suspension of students for off-campus crimes, was answered correctly by only five (20%) of the respondents.

g. Over-all, nearly one-third (31%) of all answers were in the not sure category.

Section II of the questionnaire contained questions pertaining to job-related legal information needs. This section was designed to assess the general kinds of information needed by the survey participants in order to make the day-to-day job decisions. Table II shows the results of the first seven (7) questions in this section. Analysis of this data indicated the following:

a. Ninety-two percent (92%) of respondents indicated that they do make job-related decisions based on knowing what the pertinent laws are.

b. Only 20 percent of respondents felt that they were equipped with all of the legal information necessary to make job-related decisions that could withstand a challenge

TABLE II. RESULTS OF QUESTIONNAIRE

Section II. Questions 1 through 7

Question	Yes	No	Unsure	
1. Do you ever have to make job-related decisions based on knowing what the pertinent law is?	23 (92%)	2 (8%)	---	
2. At this time, do you feel that you have all the legal information necessary to make the job-related decisions that can withstand a challenge in court?	5 (20%)	16 (64%)	4 (16%)	
3. Have you ever been a participant in a legal action related to your higher education job?	12 (48%)	13 (52%)	---	
4. Do you believe that you are immune from court action for all decisions you might make in the performance of official duties?	2 (8%)	22 (88%)	1 (4%)	
5. Of the day-to-day decisions you make on your job, estimate the percent of all decisions requiring some knowledge of legal principles.	Mean 25.6%	Median 15.9%	Modes 5% 10% 40%	Range 99
6. <u>Common Legal Information Viewed as Important to Most Positions</u>				
a. Employment Contracting				
b. Faculty Rights				
c. Student Rights				
d. Fiscal Administration				
e. Organization and Governance				
7. <u>Most Frequent Common Legal Problem</u>				
Employee Rights				

in court.

c. Of the 20 percent in (b) above, less than half have ever had to appear in court on a job-related basis (two out of five).

d. Nearly half (48%) of those surveyed have been to court or have participated in some legal proceeding as a result of their higher education jobs.

e. Eighty-eight percent (88%) of those surveyed believed that they are not immune from court action for all the decisions they might make in the performance of their jobs.

f. The range of responses to question 5, pertaining to the percentage of day-to-day decisions requiring some knowledge of college law, was extremely large (1% - 100%). The average was 26 percent of all decisions.

g. Question 7 of this section, pertaining to the legal information considered to be most important for job decision making, produced a total of 84 responses from the participants. Of this number, the following, listed in rank order, were indicated to be the most important kinds of legal information for job decision making:

- a. Employment Contracting
- b. Faculty Rights
- c. Student Rights
- d. Fiscal Administration
- e. Organization and Governance

h. There were 22 respondents who listed their most frequent legal problem. A total of nine (9) or 41 percent indicated their most frequent problem involved employee rights of both faculty and staff.

Table III shows the results of Question 8, Section II. This question was designed to assess the frequency with which educational administrators must confront certain classes of problems. Analysis of the data provided the following information:

- a. Administrators frequently came in contact with:
 1. Student grievances
 2. Financial problems
 3. Promotion problems
 4. Employment contract problems
 5. Policy conflicts
- b. Administrators infrequently came into contact with:
 1. Accreditation problems
 2. Student or faculty judicial system problems
 3. Tenure problems

Section III of the questionnaire listed a complete array of legal topics and elements generally found in the textbooks and handbooks pertaining to college and university legal principles. The questionnaire topics were supplemented with elements pertaining only to the District of Columbia so that the respondents would not only express their opinions

TABLE III. RESULTS OF QUESTIONNAIRE

Section II. Question Eight

Problem	Mode	Median	Mean
a. Student Grievances	3	2.1	2.0
b. Financial Problems	3	2.4	2.2
c. Employment Contract Problems	3	2.1	2.0
d. Salary Disputes	2,1	1.7	1.8
e. Promotion Problems	3,2	2.3	2.2
f. Tuition Problems	1	1.2	1.5
g. Due Process Problems	1	1.3	1.6
h. Tenure Problems	1	1.1	1.3
i. Capital Outlay Problems	1	1.9	1.5
j. Budget Problems	3	2.3	2.2
k. Policy Conflicts	3,2	2.1	2.1
l. Student Dismissal Problems	1	1.3	1.5
m. Student Fee Problems	1	1.2	1.7
n. Position Authority Problems	2.1	1.6	1.4
o. Judicial System Problems (Faculty)	1	1.2	1.4
p. Judicial System Problems (Students)	1	1.2	1.3
q. Public or Community Complaints	1	1.3	1.4
r. Accreditation Related Problems	1	1.2	1.3
Scores:	Frequently = 3.0		
	Occasionally = 2.0		
	Rarely = 1.0		

about what should be included in a study or handbook but would also be designing an actual outline of a study or handbook applicable to the public college system of the District of Columbia.

Table IV shows the analytical results of Section III. Table V shows the distribution of responses by mode. Table VI shows a draft topic outline for the study and handbook as a result of eliminating the legal elements with a mode of less than 3.0 (those with a category of somewhat necessary and least necessary). This outline became the base document that was submitted to the expert panel for their review and subsequent modification.

INTERPRETATION OF SURVEY DATA

Based on the review of Section I information, it appeared that, over-all, the surveyed group has a generally low awareness of the more popular aspects of college and university law. However, this same group appeared to be aware of the specific legal aspects pertaining to instruction or classroom activities. Further, with the large percentage of incorrect and not sure answers (61%), it was indicated that some decisions requiring a basic knowledge of various aspects of college and university law were not made or will not be made on a sound or firm basis. In this respect and based upon the Section I

TABLE IV. RESULTS OF QUESTIONNAIRE

Section III

	Mode	Median	Mean	Range
Scores = Most necessary (4), Necessary (3), Somewhat necessary (2), Least necessary (1).				
LEGAL STRUCTURE OF PUBLIC HIGHER EDUCATION IN THE NATION'S CAPITAL				
Organization & Governance	4	3.7	3.6	1
The Court System	2	2.1	2.3	3
Institutions as Creatures of the Federal Congress	1	2.0	2.2	3
Basis for Laws, Regulations, Rules and Policies	4	3.4	3.2	3
Control of Public Higher Education	4.3	3.4	3.3	2
FINANCE AND ADMINISTRATION OF PUBLIC HIGHER EDUCATION				
Legal Aspect for Revenue				
Legal Aspects of the Budgetary Cycle	4	3.1	2.9	3
Federal Limitations in Fiscal & Program Management	4.3	3.0	2.7	3
Federal Anti-Deficiency Act	3	2.6	2.4	3
Capital Outlay Programming	3	2.7	2.6	3
Taxation	3	2.6	2.4	3
Charitable Trust	1	2.4	2.4	3

TABLE IV (continued)

	Mode	Median	Mean	Range
CONSTITUTIONAL RIGHTS OF STUDENTS				
Student-University Relationship				
In Loco Parentis	1	1.6	2.0	3
Privilege	3	3.0	2.8	3
Contract	3	2.7	2.6	3
Trust	1	2.4	2.3	3
Fiduciary	3	2.8	2.5	3
Constitutional	3	3.1	3.1	3
First Amendment Rights				
Freedom of the Press	4	3.6	3.2	3
Freedom of Speech	4	3.8	3.4	3
Freedom of Assembly	4	3.7	3.4	3
Freedom of Religion	4	3.4	3.0	3
Personal Appearance	1	1.7	2.1	3
Grades	3	2.8	2.6	3
Violation of Criminal Law Off Campus	3	2.6	2.5	3
Damage or Destruction of Property	4.3	3.1	3.0	3
Weapons on School Grounds	4	3.1	2.9	3
Search and Seizure	4	3.4	3.2	3
Mass Hearings	4	3.0	2.8	3

TABLE IV (continued)

	Mode	Median	Mean	Range
Double Jeopardy	1	2.0	2.2	3
Procedural Due Process				
Notice	4	3.4	3.2	3
Hearing	4	3.4	3.2	3
Classroom Activities	4	3.2	2.9	3
Privilege Against Self-Incrimination	4	2.6	2.6	3
Tenure	4	3.1	3.0	3
Employment Contracts	4	3.7	3.4	3
Contract Renewal	4	3.7	3.4	3
Dismissal of Contract Employees	4	3.7	3.3	3
Dismissal of Tenured Faculty	4	3.7	3.2	3
Dismissal of Non- Tenured Faculty	4	3.4	3.2	3
Collective Bargaining	4	3.6	3.2	3
Retirement Benefits	4	3.8	3.4	3
TORT LIABILITY OF PUBLIC HIGHER EDUCATION PERSONNEL				
Grounds for Tort Action	4	3.5	3.1	3
Elements of Negligence	4	3.5	3.1	3
Defenses for Negligence	4	3.3	3.0	3
Defamation	4	3.3	3.0	3
Nuisance	4	3.0	2.8	3

TABLE IV (continued)

	Mode	Median	Mean	Range
Liability of College Administrators and Officers	4	3.7	3.3	3
Immunity	4	2.6	2.6	3
Personal Liability Under the 1871 Civil Rights Act	4	3.2	3.0	3
OTHER RELATED LEGAL MATTERS				
Desegregation	4	3.0	2.8	3
Accreditation	4	3.5	3.1	3
Right to Counsel	4	3.6	3.2	3
Inspection of Evidence	4.3	3.3	3.1	3
Trier of Fact--Impartiality of the Hearing	4	3.4	3.2	3
Witness--Cross-Examination, Confrontation, and Compulsory Production	4	3.0	3.3	3
Self-Incrimination	1	2.0	2.2	3
Sufficiency of Evidence	4	3.3	3.0	3
Transcript of Hearing	4.3	2.7	2.6	3
Appeal	4	3.6	3.2	3
Immediate Suspension	4	3.0	2.8	3
Expulsion	4	3.0	2.8	3
Student Records	4	3.7	3.2	2
Discrimination	4	3.5	3.0	3
1871 Civil Rights Act	4	3.1	2.8	3

TABLE IV (continued)

	Mode	Median	Mean	Range
STUDENT FEES AND TUITION				
Basis for Fees & Tuition	4	3.5	3.1	3
Uses of Student Fees	4	3.7	3.3	3
Disposition and Uses of Incidental Fees & Tuition	4	3.5	3.2	3
The Question of Residency	4	2.8	2.7	3
Foreign Students	4.3	3.0	2.8	3
FACULTY AND OTHER PERSONNEL				
Academic Freedom	4	3.7	3.3	2
Loyalty Oaths	4	2.8	2.6	3
Political Activity	4	3.0	2.7	3
Copyright	1	2.2	2.4	3
Affirmative Action Program in D.C. Public Institutions	4	3.0	2.7	3

Scores = Most necessary (4), Necessary (3), Somewhat
necessary (2), Least necessary (1).

TABLE V. DISTRIBUTION BY MODE
OF RESPONSES TO QUESTIONNAIRE

Section III

	Most Neces- sary	Neces- sary	Somewhat Neces- sary	Least Neces- sary
LEGAL STRUCTURE OF PUBLIC HIGHER EDUCATION IN THE NATION'S CAPITAL				
Organization & Governance	X			
The Court System			X	
Institutions as Creatures of the Federal Congress				X
Basis for Laws, Regula- tions, Rules & Policies	X			
Control of Public Higher Education	X	X		
FINANCE & ADMINISTRATION OF PUBLIC HIGHER EDUCATION				
Legal Aspect for Revenue				
Legal Aspects of the Budgetary Cycle	X			
Federal Limitations in Fiscal & Program Management	X	X		
The Federal Anti-Deficiency Act		X		
Capital Outlay Programming		X		
Taxation		X		
Charitable Trust				X

TABLE V (continued)

	Most Neces- sary	Neces- sary	Somewhat Neces- sary	Least Neces- sary
CONSTITUTIONAL RIGHTS OF STUDENTS				
Student-University Relationship				
In Loco Parentis				X
Privilege		X		
Contract		X		
Trust				X
Fiduciary		X		
Constitutional		X		
First Amendment Rights				
Freedom of the Press	X			
Freedom of Speech	X			
Freedom of Assembly	X			
Freedom of Religion	X			
Personal Appearance				X
Grades		X		
Violation of Criminal Law Off Campus			X	
Damage or Destruction of Property	X	X		
Weapons on School Grounds	X			
Search and Seizure	X			
Mass Hearings	X			

TABLE V (continued)

	Most Neces- sary	Neces- sary	Somewhat Neces- sary	Least Neces- sary
Double Jeopardy				X
Procedural Due Process				
Notice	X			
Hearing	X			
Right to Counsel	X			
Inspection of Evidence	X	X		
Trier of Fact--Impar- tiality of the Hearing	X			
Witness--Cross-Examina- tion, Confrontation, & Compulsory Production	X			
Self Incrimination	X			
Sufficiency of Evidence	X			
Transcript of Hearing	X	X		
Appeal	X			
Immediate Suspension	X			
Expulsion	X			
Student Records	X			
Discrimination	X			
1871 Civil Rights Act	X			

TABLE V (continued)

	Most Neces- sary	Neces- sary	Somewhat Neces- sary	Least Neces- sary
STUDENT FEES & TUITION				
Basis for Fees & Tuition	X			
Uses of Student Fees	X			
Disposition and Uses of Incidental Fees & Tuition	X			
The Question of Residency	X			
Foreign Students	X	X		
FACULTY AND OTHER PERSONNEL				
Academic Freedom	X			
Loyalty Oaths	X			
Political Activity	X			
Classroom Activities	X			
Privilege Against Self-Incrimination	X			
Tenure	X			
Employment Contracts	X			
Contract Renewal	X			
Dismissal of Contract Employees	X			
Dismissal of Tenured Faculty	X			
Dismissal of Non- Tenured Faculty	X			
Collective Bargaining	X			
Retirement Benefits	X			

TABLE V (continued)

	Most Neces- sary	Neces- sary	Somewhat Neces- sary	Least Neces- sary
TORT LIABILITY OF PUBLIC HIGHER EDUCATION PERSONNEL				
Grounds for Tort Action	X			
Elements of Negligence	X			
Defenses for Negligence	X			
Defamation	X			
Nuisance	X			
Liability of College Administrators & Officers	X			
Immunity	X			
Personal Liability Under the 1871 Civil Rights Act	X			
OTHER RELATED LEGAL MATTERS				
Desegregation		X		
Accreditation	X			
Copyright				X
Affirmative Action Programs in D.C. Public Institutions	X			

TABLE VI. SELECTED LEGAL TOPICS AND ELEMENTS
FOR INCLUSION IN A STUDY AND HANDBOOK

LEGAL STRUCTURE OF PUBLIC HIGHER
EDUCATION IN THE NATION'S CAPITAL

Organization and Governance

Basis for Laws, Regulations,
Rules and Policies

Control of Public Higher
Education

FINANCE AND ADMINISTRATION OF
PUBLIC HIGHER EDUCATION

Legal Aspects for Revenue

The Budgetary Cycle

Federal Limitations in Fiscal
and Program Management

Federal Anti-Deficiency Act

Capital Outlay Programs

Taxation

CONSTITUTIONAL RIGHTS OF STUDENTS

Student-University Relationships

Privilege

Contract

Fiduciary

Constitutional

First Amendment Rights

Freedom of the Press

Freedom of Speech

TABLE VI (continued)

Freedom of Assembly
Freedom of Religion
Grades
Violation of Criminal Law
Off Campus
Damage or Destruction of
Property
Weapons on School Grounds
Search and Seizure
Mass Hearings
Procedural Due Process
 Notice
 Nearing
 Right to Counsel
 Inspection of Evidence
 Trier of Fact--Impart-
 iality of the Hearing
 Witness--Cross-Examination,
 Confrontation, & Compulsory
 Production
 Self-Incrimination
 Sufficiency of Evidence
 Transcript of Hearing
 Appeal
 Immediate Suspension
 Expulsion

TABLE VI (continued)

Student Records
Discrimination
1871 Civil Rights Act
STUDENT FEES AND TUITION
Basis for Fees & Tuition
Uses of Student Fees
Disposition and Uses of Incidental Fees & Tuition
Residency
Foreign Students
FACULTY AND OTHER PERSONNEL
Academic Freedom
Loyalty Oaths
Political Activity
Classroom Activities
Privilege Against Self-Incrimination
Tenure
Employment Contracts
Contract Renewal
Dismissal of Contract Employee
Dismissal of Tenured Faculty
Dismissal of Non- Tenured Faculty

TABLE VI (continued)

Collective Bargaining
Retirement Benefits
TORT LIABILITY OF PUBLIC HIGHER EDUCATION PERSONNEL
Grounds for Tort Action
Elements of Negligence
Defenses for Negligence
Defamation
Nuisance
Liability of College Administrators & Officers
Immunity
Personal Liability Under the 1871 Civil Rights Act
OTHER RELATED LEGAL MATTERS
Desegregation
Accreditation
Affirmative Action Programs in the District of Columbia

information, it could be projected that the number of incorrect decisions made on educational or administrative matters having legal implications could be as high as 61 percent, particularly in matters of student expulsion or suspensions.

The Section II information provided additional insight and inspection of on-the-job needs for legal information as expressed by the survey group. It appeared that nearly all of those surveyed (92%) did make job decisions based on knowing the pertinent law. More significantly, it appeared that most of the group (80%) felt that they were not equipped with sufficient legal information that they would like to have in order to make decisions on matters of legal implication that could withstand a challenge in court.

The seemingly high percentage (48%) of those surveyed who have participated in job-related legal proceedings could indicate either that the District of Columbia public college system is a precarious place of work for administrators or that several administrators have experienced legal problems in other education systems. Other responses to questions indicate that the survey group was well aware of the fact that they were not immune from court action for all of their job-related decisions. Further, the group indicated that an average of 26 percent of their decisions

required some knowledge of college and university law. It seemed apparent that much time and effort was consumed in decision-making requiring legal information.

Further review of Section II information indicated that the kinds of legal information which seemed important to most administrators were primarily those of personal or civil rights. However, employment contracting, fiscal administration, and policy conflicts appeared to cause frequent problems too. This could indicate a lack of employment processes consistent with other educational systems, incompatible personnel practices of the three institutions, or even the proper administration of the terms and conditions within the contract document itself. Fiscal problems could be attributable to staff turnover in fiscal offices, shortages of operational funds, lack of effective fiscal systems, or ambiguity in local institution, District Government, Federal Government, or grantee rules, regulations or laws.

Student grievances also appear to cause frequent problems. Policy conflicts were deemed to be another frequent problem. This most likely was influenced by the very nature of the organization and governance of the colleges. Program control of the colleges was vested in the governing boards, while fiscal control was vested in the Mayor. In this situation, there appeared to be

continuous opportunity for conflict of direction and purpose.

Another frequent problem identified by the survey group was that of promotions. These problems generally arise when the numbers of promotions that can be made diminish as the system matures and turnover slows. Also, in the District Government, the effects of reductions in work force and regressive operating budgets created a forum for such a problem. Finally, the survey group appeared to come into contact with tenure and accreditation problems less frequently than any others. This probably indicates that the accreditation cycle is long enough to allow for adequate planning and appropriate activity rather than for crisis planning and activity. Tenure, at this time, appears to be less time consuming due to the fact that only one institution (D.C.T.C.) has tenure policies. From informal discussion with members of the survey group, collective bargaining has not been a problem to date but its use as a pressure force is viewed as evolving.

Section III of the questionnaire reflected the administrators' opinions relative to the contents of a study and handbook of college and university law pertaining to the District of Columbia public colleges. Table VI reflects the interpretation of the information gleaned

from the analysis of responses. This table became the draft topic outline which was submitted to the expert panel for review and modifications. The results of the topic outline review by the panel and the subsequent modifications are reported in the next section.

DEVELOPMENT OF A TOPIC OUTLINE FOR A LEGAL STUDY

The letter forwarding the draft topic outline (See Appendix E) to the first panel of experts (See Figure 1) also contained a summary of the questionnaire results and analysis as reported earlier in this chapter. The additional document was forwarded so that the review panel would be somewhat aware of the level and extent of college law knowledge that was exhibited by the survey group, as well as their expressed legal information needs and desires. In this regard, the review panel was in a more positive position to note any significant deficiency in the draft outline due to two reasons:

- a. The possibility that many participants did not know what they need to know.
- b. The probability that most participants were not abreast of current trends in college and university law.

The letter specifically directed the panel members to consider the following:

- a. Suggest additions, deletions, corrections or any

other modifications that would improve the study and/or the handbook.

b. Suggest any special considerations that a legal researcher should be aware of as the actual research of legal aspects progresses.

c. Submit any other comments relative to the mechanical aspects of writing or producing the study results and handbook.

Written replies were received from each panel member. Their individual recommendations for modifying the draft topic outline are contained in Appendixes E-2 through E-6. Collectively, their recommendations are summarized below:

a. Review each of the topics and sub-topic with a colleague to determine if he/she can determine the proposed content. Clarify where necessary.

b. Add a new topic entitled "Public Policy and Law: Non-Discrimination in Higher Education." Include under this topic Titles VI, VII and IX of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Title 34 of the Human Rights Act of the District of Columbia. Title VI and IX of the Civil Rights Act of 1964 probably created a greater danger potential for higher education than any other aspect of the law at present. These two titles pertain to withdrawal of federally supported programs from institutions guilty of

discriminatory practices or in violation of the Fourteenth Amendment (denial of due process and practice of segregation).

c. Include a section in the outline which pertains to the organization and function of the judicial system in the District of Columbia. The section should include the juvenile justice system, criminal justice system, and civil justice system. Public college administrators should be knowledgeable of these systems and the relationships and impacts they have on the citizens and institutions.

d. Personal Appearance, as a legal topic under Constitutional Rights, should be included in the outline.

e. Citation of legal cases or subject matter discussion should include the concerns of all levels of administration.

f. Readability of the handbook wording should be a major concern.

g. Develop an overview or introduction in the outline that covers the role of public higher education in general and in the District of Columbia.

h. Set forth the purpose of the handbook, including the influence of certain legal decisions and their impact on higher education, as well as the need for the handbook.

i. Restructure the topic "Structure of Public Higher Education in the Nation's Capital." Add sub-topic entitled

"Source of Authority."

j. Change the sub-topic "Control of Public Higher Education" to "Governance and Oversight." "Control" is too harsh. Under this sub-topic there should be a delineation of those institutions responsible to and for public higher education in the District of Columbia.

k. Under "Student-University Relationships" add a sub-topic on "Admissions" with a concentration on denial of admission.

l. After "Freedom of Religion" insert the constitutional safeguard of "Right to Privacy" in "A. Records and Papers" and "B. Person."

m. Under "Grades" insert "Revocation and Withdrawal of Degrees."

n. "Expulsion" and "Immediate Suspension" should be major sub-topics rather than elements.

o. Under "Student Records" delineate the Buckley Amendment by correct title.

p. Under "Discrimination" add "Reverse Discrimination" as a discussion piece.

q. Under "Employment Contracts" add "Non-Renewal of Contracts."

r. Add new topic entitled "Officers and Trustees Liability Insurance."

The recommendations cited above were fully integrated

into the draft topic outline. This finalized outline (See Exhibit F) became the basis for development of the model request for proposal (RFP). A report of the RFP development is contained in the following section.

DEVELOPMENT OF A MODEL REQUEST FOR PROPOSAL

The draft version of the model request for proposal (RFP) was constructed using the design and content criteria as specified in the following government publications (See Appendix G-2):

- a. District of Columbia Material Management Manual, Part Three (1974).
- b. Federal City College Manual of Administration (1975).
- c. National Aeronautics and Space Administration Procurement Regulations, Part III, Sub-part 5 (1970).

The technical proposal instructions were developed using the publications mentioned above, as well as those guides discussed by Watson (1964) and Currie and Wasson (1973) for the writing of performance specifications (See Definitions, page 12).

The request for proposal was organized to promote orderly analysis and response. It was divided into two parts as follows:

Part A. This part required no response. It contained

information explaining the RFP and would assist in preparing and submitting proposals.

Part B: This part contained specific instructions and details for the preparation of proposals. Part B was further subdivided into three (3) sections:

Section 1, Technical Proposal Instructions.

Section 2, Cost Proposal Instructions.

Section 3, Business Proposal Instructions.

Appropriate cover pages, proposal response letter, and a table of contents were also provided in the draft version of the RFP. This initial version of the Model Request for Proposal was submitted to the second panel of experts (See Figure 2).

The letter transmitting the draft RFP instructed the panel members to review and comment upon the following (See Appendix G-1):

- a. Feasibility of the performance required.
- b. Realism of expected results.
- c. Over-all contents of RFP.
- d. Probability of model to produce a meaningful proposal.

Written replies were received from each panel member. Their individual comments and recommendations are

contained in Appendixes G-3 through G-6. As a group, their collective modifications are summarized as follows:

a. Strengthen the aims of the RFP in such a manner as to further define or delimit the scope of the work to be done. In the case of the draft RFP, the matter is a difficult one, because the services desired do not lend themselves to any simple characterization.

b. Indicate an expected level of effort in the RFP to assist in further defining the scope of work.

c. Include in the Business Management Section of the RFP a provision for the prospective contractor to comply with equal opportunity obligations, as set forth in Government of the District of Columbia Commissioner's Order 73-51 dated February 28, 1973.

d. In Part A of the RFP, reduce the number of copies a proposer must submit, since preparation of proposals can be expensive, especially to a small consultant on low overhead.

All of the recommendations indicated above were integrated into the draft RFP. Pages 79 through 103 contain the final version of the model RFP.

MODEL REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NO. _____

SERVICES SOLICITED: A STUDY AND HANDBOOK OF LEGAL ASPECTS
OF PUBLIC HIGHER EDUCATION IN
WASHINGTON, D. C.

PRE-PROPOSAL CONFERENCE:

_____ WILL NOT BE HELD

_____ WILL BE HELD

DATE _____

TIME _____

PLACE _____

PROPOSALS DUE NOT LATER THAN:

DATE _____

TIME _____

TELEGRAPHIC RESPONSE:

_____ ACCEPTABLE

_____ NOT ACCEPTABLE

COMMUNICATIONS IN REFERENCE TO THIS RFP:

ANY COMMUNICATIONS IN REFERENCE TO THIS RFP SHALL BE
DIRECTED TO THE FOLLOWING REPRESENTATIVE:

NAME: (Contracting Officer)

PHONE: (Telephone of Contracting Officer)

ADDRESS: (Address of Contracting Officer)

RFP ISSUED BY:

_____ (signature)
Contracting Officer

_____ Date

(Agency letterhead)

REPLY TO
ATTN. OF

RFP NO. _____

PLEASE REVIEW THE ATTACHED REQUEST FOR PROPOSAL.
FURNISH THE INFORMATION REQUESTED BELOW AND RETURN
THIS PAGE BY THE EARLIEST PRACTICABLE DATE.

_____ I DO NOT INTEND TO SUBMIT A PROPOSAL.

_____ I DO NOT INTEND TO SUBMIT A PROPOSAL FOR THE
FOLLOWING REASONS:

COMPANY NAME:

AUTHORIZED SIGNATURE:

TYPED NAME AND TITLE:

DATE:

RETURN TO:

(Agency title and address)

Attn. (Contracting Officer)

PREFACE

This RFP is organized to promote orderly analysis and response. It is divided into two parts as follows:

Part A: This part requires no response. It contains information explaining the RFP and will assist in preparing and submitting proposals.

Part B: This part contains specific instructions and details for the preparation of proposals.

Part B is further subdivided into 3 sections:

Section 1, Technical Proposal Instructions.

Section 2, Cost Proposal Instructions.

Section 3, Business Proposal Instructions.

The table of contents immediately following gives further details of contents of these parts and sections.

TABLE OF CONTENTS

PART A	GENERAL INFORMATION	A1
	RFP SUMMARY	A1
	DELIVERABLE ITEMS AND SCHEDULE	A1
	CONTENTS OF PROPOSAL	A1
	ANTICIPATED AWARD DATE	A1
	TYPE OF CONTRACT	A1
	PROPOSAL EVALUATION	A1
	COMMITMENT OF PUBLIC FUNDS	A2
	EXPENSES RELATED TO OFFEROR SUBMISSIONS	2
	DISPOSAL OF UNSUCCESSFUL OFFEROR'S PROPOSALS	A2
	UNNECESSARILY ELABORATE PROPOSALS	A2
	ORAL PRESENTATIONS	A3
	SUMMARY OF DEVIATIONS/EXCEPTIONS	A3
	INSTRUCTIONS FOR ASSEMBLING, PACKAGING AND SUBMITTING THE PROPOSAL	A3
	HAND CARRIED PROPOSALS	A4
	FALSE STATEMENTS	A4
	OTHER	A4
PART B	INSTRUCTIONS	
Sec. 1	TECHNICAL PROPOSAL INSTRUCTIONS	B1-1
	GENERAL	B1-1
	INSTRUCTIONS	B1-2
	TOPIC OUTLINE FOR HANDBOOK	B1-4

TABLE OF CONTENTS (continued)

Sec. 2	COST PROPOSAL INSTRUCTIONS	B2-1
	GENERAL	B2-1
	INSTRUCTIONS	B2-1
	COST AND PRICE SUMMARY FORM	B2-4
Sec. 3	BUSINESS MANAGEMENT PROPOSAL INSTRUCTIONS	B3-1
	GENERAL	B3-1
	INSTRUCTIONS	B3-2

GENERAL INFORMATION

RFP SUMMARY: This RFP calls for a contractor to perform a study of the legal aspects of public higher education in Washington, D. C. and prepare a handbook of those aspects for general reference use by public college administrators. The handbook is not expected to be a substitute for expert legal advice and should not exceed _____ pages.

DELIVERABLE ITEMS AND SCHEDULE: See Part B, Section 1, Page B1-2.

CONTENTS OF PROPOSAL:

1. Offerer's Approach to the Study (Technical Proposal)
2. Offerer's Cost and Price Summary (Cost Proposal)
3. Offerer's Business Approach to the Contract (Business Management Proposal)

ANTICIPATED AWARD DATE: _____ (date)

TYPE OF CONTRACT: (Firm fixed price, cost plus incentive fee, etc.)

PROPOSAL EVALUATION: The technical, cost and business proposals will be evaluated against evaluation criteria as set forth in Part B, Sections 1, 2 and 3 of this RFP. The technical proposal will be point scored in accordance with weighted evaluation criteria established and approved prior to receipt of proposals. The cost and business

proposals will not be point scored; however, the inter-relationships among the technical, cost and business management proposals will be assessed consistent with (agency) requirements to obtain the most advantageous contract--price, quality and other factors considered.

COMMITMENT OF PUBLIC FUNDS: The Contracting Officer is the only individual who can legally commit the (agency) to the expenditure of public funds in connection with the proposed procurement. Any other commitment, either explicit or implied, is invalid.

EXPENSES RELATED TO OFFEROR SUBMISSIONS: This RFP does not commit the (agency) to pay any costs incurred in the submissions of proposals or in making necessary studies for the preparations thereof nor to procure or contract for services or supplies.

DISPOSAL OF UNSUCCESSFUL OFFEROR'S PROPOSALS: After award of contract, one copy of each proposal will be retained in the official contract files, and all other copies will be destroyed.

UNNECESSARILY ELABORATE PROPOSALS: Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive paper and bindings, and expensive visual or other presentation

aids are neither necessary nor desired.

ORAL PRESENTATIONS: The _____ (agency) _____ may require oral presentations from any or all of the offerors. Offerors will be notified of the time, place and format for such presentations.

SUMMARY OF DEVIATIONS/EXCEPTIONS: The offeror will explain any deviations, exceptions or conditional assumptions taken with respect to any part of the RFP. Exceptions and/or deviations should be summarized at the end of the appropriate part and section of the RFP. Any exceptions taken must carry sufficient amplification and justification to permit evaluation. Such exceptions will not, of themselves, automatically cause a proposal to be termed unacceptable. A large number of exceptions or one or more significant exceptions not providing any obvious benefit to the _____ (agency) _____ may, however, result in rejection of such proposal(s) as unacceptable.

INSTRUCTIONS FOR ASSEMBLING, PACKAGING AND SUBMITTING THE PROPOSAL:

Organization of the Proposal: Your proposal shall be organized the same as the RFP, Part B; that is, the same number of sections and the information requested in each section. Instructions regarding the contents of the sections are contained in each section described in the RFP, Part B. Each section shall be physically separate.

Number of Copies to be Submitted:

Letter of Transmittal -- Original plus 2 copies

Technical Proposal -- Three (3) copies

Cost Proposal -- Three (3) copies

Business Management Proposal -- Three (3) copies

External Marking: Each proposal package to be mailed should be marked for delivery to the address and individual indicated below:

ADDRESS: (Agency bid room address)

ATTN: (Contracting Officer)

In addition, mark each package as follows:

"RESPONSE TO RFP NUMBER _____. DO NOT OPEN."

HAND CARRIED PROPOSALS: If proposals are to be hand carried, be certain they are closed and sealed as if for mailing. Hand carried proposals must be delivered to the _____ (agency) bid room. The _____ (agency) does not accept responsibility for proposals hand delivered to other than the _____ (agency) bid room.

FALSE STATEMENTS: Proposals must set forth full, accurate and complete information as required by this RFP (including attachments). The penalty for making false statements in Proposals is prescribed in 18 U.S.C. 1001.

OTHER: (Include here all Agency "Boiler Plate" articles and/or provisions.)

PART B

Section 1

TECHNICAL PROPOSAL INSTRUCTIONSGENERAL

STATEMENT OF WORK: The contractor shall perform a study of certain legal aspects of public higher education in Washington, D. C. and prepare a handbook suitable as a general reference document for college administrators. The study and resultant handbook shall be directed towards conveying sufficient information to enable a college administrator to understand the basic legal principles of public higher education law, with the objective of precluding administrative decisions obviously contrary to the existing body of law. The handbook is not intended as a substitute for expert legal counsel. Citation of cases should be limited to landmark cases as much as possible. Where appropriate, however, citation of cases directly involving or pertaining to the public colleges of the District of Columbia should be reviewed. An outline of the required handbook contents is attached. It is expected that topics in the outline can be covered in a handbook of approximately ____ pages. Readability should be a major concern in developing the handbook wording.

DELIVERABLE ITEMS UNDER PROPOSED CONTRACT:

Item	Description	Quantity	Schedule
1	Progress Report	2	30 days after date of award
2	Progress Report	2	60 days after date of award
3	Draft Handbook	2	90 days after date of award
4	Final Handbook	10 copies & 20 reducibles	days after review and comment on item 3.

EVALUATION CRITERIA:

1. Understanding of the work to be done
2. Proposed information sources
3. Qualifications of personnel assigned to the study and handbooks tasks.

INSTRUCTIONS

PAGE IDENTIFICATION: All pages in the technical proposal must be identified with the offeror's name, RFP number, and date. Subsequent revisions must be similarly identified and coded to show the revision number and date.

CONTENTS OF PROPOSAL: The technical proposal shall be a separate volume consisting of the following:

1. Table of Contents
2. Introduction: No specific instructions.
3. Methods: State in detail the approach or methodology you plan to use to accomplish the requirements set forth in the Statement of Work and Deliverable Items, as indicated above.
4. Information Sources: List and discuss in a general manner the various information sources you plan to

utilize.

5. Key Personnel: List all key personnel to be assigned to the study and handbook effort and their specific areas of responsibility.

6. Other: Submit any additional information that you feel will lead to a clearer understanding of your approach to the contract requirements.

7. Summarize any exceptions or deviations taken with regard to the requirements set forth in this section, if any.

ATTACHMENT

OUTLINE FOR A STUDY AND HANDBOOK
OF LEGAL ASPECTS OF PUBLIC HIGHER
EDUCATION IN THE NATION'S CAPITAL

ROLE OF PUBLIC HIGHER EDUCATION - AN OVERVIEW

National objectives

Public higher education in the District of Columbia

PURPOSE OF THE HANDBOOK

Influence of major legal decisions, past and present,
on higher education

Need for a handbook in the District of Columbia

STRUCTURE OF PUBLIC HIGHER EDUCATION IN THE DISTRICT OF
COLUMBIA

Sources of authority

District of Columbia Public Higher Education Act
of 1966 (PL 89-791)

Land grant acts (Smith-Lever Act, Bankhead-Jones
Act, 1860 Land Grant Act, 1890 Land Grant Act,
etc.)

Others as appropriate

Governance and Oversight

Board of Higher Education

Board of Vocational Education

Office of the Mayor

City Council

Federal Congress

FINANCE AND ADMINISTRATION OF PUBLIC HIGHER EDUCATION

Legal basis for funding

General operating programs

Capital outlay programs

Land grant programs

Miscellaneous grants and contracts

The budgetary cycle

Limitations in fiscal and program management

The Administrative Procedures Act

The Anti-Deficiency Act

Budgetary authority

Fiscal procedures

Bond authority

Federal and District administrative agencies

Taxation

CONSTITUTIONAL RIGHTS OF STUDENTS

Admission practices

Student-university relationships

Privilege

Contract

Fiduciary

Constitutional

First Amendment rights

Freedom of the press

Freedom of speech

Freedom of assembly

Freedom of religion

Right to privacy

Records and papers

Person

Personal appearance

Grades

Revocation and withdrawal of degrees

Violation of criminal law off campus

Damage or destruction of property

Weapons on school grounds

Search and seizure

Mass hearings

Immediate suspension

Expulsion

Procedural due process

Notice

Hearing

Right to counsel

Inspection of evidence

Trier of fact--impartiality of the hearing

Witness--cross-examination, confrontation, and compulsory production

Self-incrimination

Sufficiency of evidence

Transcript of hearing

Appeal

Student records

Family Educational Rights and Privacy Act of
1974 (PL 93-380)

1871 Civil Rights Act

STUDENT FEES AND TUITION

Basis for fees and tuition

Uses of student fees

Disposition and uses of incidental fees and tuition

Residency

Foreign students

FACULTY AND OTHER PERSONNEL

Academic freedom

Loyalty oaths

Political activity

Classroom activities

Tenure

Civil Service appointments

Employment contracts

Contract renewal

Non-renewal of contract

Privilege against self-incrimination

Dismissal of contract employee

Dismissal of tenured faculty

Dismissal of non-tenured faculty

Dismissal of Civil Service employee

Labor-management relations in public higher education

National trends

Status in the District of Columbia

Retirements

TORT LIABILITY OF PUBLIC HIGHER EDUCATION PERSONNEL

Grounds for tort action

Elements of negligence

Defenses for negligence

Defamation

Nuisance

Liability of college administrators and trustees

Immunity

Personal liability under the 1871 Civil Rights Act

Officer and trustee liability insurance

PUBLIC POLICY AND LAW: NON-DISCRIMINATION IN HIGHER
EDUCATION

Title VI and VII, Civil Rights Act of 1964 (PL 88-352)

Title IX, Education Amendments of 1972 (PL 92-318)

Title 34, 1974 Human Rights Act of the District of
Columbia

Others as appropriate

ORGANIZATION AND FUNCTION OF THE JUDICIAL SYSTEM IN THE
DISTRICT OF COLUMBIA

District of Columbia Court Reorganization Act of 1970

Juvenile justice system

Criminal justice system

Civil justice system

OTHER RELATED LEGAL MATTERS

Desegregation

Accreditation

Affirmative action programs in District of Columbia

Impending reorganization of public higher education
in the District of Columbia

PART B

SECTION 2

COST PROPOSAL INSTRUCTIONSGENERAL

Page Identification: All pages in the cost proposal must be identified with the offeror's name, RFP number, and date; subsequent revisions must be similarly identified and coded to show the revision number and date.

Rounding Off: Final monetary extensions may be expressed in the closest whole dollar amount with cents omitted.

Evaluation Criteria: Proposals will be evaluated to establish for each proposal:

- a. The validity of the costs as proposed.
- b. The probable cost to the _____ (agency) of accepting each proposal, including any required modifications to an offeror's approach or work plan for accomplishing the work proposed.

The cost proposal will also be used as an aid to determine the offeror's understanding of the requirements of the RFP as well as to assess the validity of the offeror's approach to performing the work in accordance with the requirements.

INSTRUCTIONS

The cost proposal shall be a separate volume

consisting of the following:

1. Table of Contents
2. Introduction: As a minimum, give a brief description of the effort being performed by the offeror and any subcontractors or consultants.
3. Cost and Price Summary: The attached cost and price summary form shall be fully filled in and executed.
4. Backup Sheets for each element of cost indicated on the cost and price summary form and consisting of the following as a minimum:
 - a. Manpower loading charts providing major categories of labor and number of labor hours by month.
 - b. Provide the basis for all labor rates and all indirect (Overhead and G&A) rates.
 - c. Schedule of material, if any.
 - d. Schedule of computer costs, if any.
 - e. Schedule of local and out-of-town travel.
If any out-of-town travel is involved, provide destination, number of days, reason for travel, costed elements of travel and dollar total for each trip.
 - f. Schedule of any other direct costs.
 - g. For each subcontract in excess of \$500.00 which involves study and analysis work

directly related to this contract, provide a brief description of work to be performed, type of subcontract awarded, whether award was based on competition, and the organizational relationship, if any, or the subcontractor to the offeror.

5. Summarize any exceptions or deviations taken with regard to the requirements set forth in this section, if any.

6. SPECIAL PRICING INSTRUCTION: For pricing purposes, proposer should assume a level of effort of approximately _____ manhours for the direct research labor effort. Appropriate supportive labor (clerical, publication, etc.) should be assessed and priced accordingly.

ATTACHMENT

COST AND PRICE SUMMARY

	<u>HOURS</u>	<u>RATE</u>	<u>COST</u>	<u>TOTAL</u>
DIRECT LABOR: (by labor categories)		\$	\$	
	_____	_____	_____	
	=====	=====	=====	=====
OVERHEAD	<u>RATE</u>	<u>BASE</u>	<u>COST</u>	
		\$	\$	
	_____	_____	_____	
TOTAL OVERHEAD	=====	=====	=====	=====
MATERIAL:			_____	
SUBCONTRACTS			_____	
TRAVEL			_____	
OTHER DIRECT COSTS			_____	
TOTAL OTHER DIRECT COSTS				=====
	<u>RATE</u>	<u>BASE</u>	<u>AMOUNT</u>	
		\$	\$	
TOTAL G&A	=====	=====	=====	=====
PROFIT/FEE BEARINGS COSTS				=====
PROFIT/FEE				=====
TOTAL PRICE				=====

AUTHORIZED COMPANY REPRESENTATIVE _____

DATE _____

PART B

SECTION 3

BUSINESS MANAGEMENT PROPOSAL INSTRUCTIONSGENERAL

Page Identification: All pages in the business management proposal must be identified with the offeror's name, RFP number, and date; subsequent revisions must be similarly identified and coded to show the revision number and date.

Evaluation Criteria: Criteria to be applied in the evaluation are as follows:

1. Financial Stability
2. Past Performance
3. Management Plan
4. Qualifications of Key Personnel

The information requested in this part and section of the RFP, together with information that the Contracting Officer may acquire from the records (agency), other government sources and commercially available data, will provide the total information for the Business Management evaluation.

Content: The Business Management Proposal shall contain all information of joint interest to the technical and cost evaluation personnel. It will not include any cost or pricing data relative to this procurement.

INSTRUCTIONS

The Business Management Proposal shall be a separate volume consisting of the following:

1. Table of Contents
2. Introduction: The offeror will define briefly the entire scope of his proposal.
3. Financial Stability: Information furnished should include but not be limited to the following:
 - a. Credit references.
 - b. Established lines of credit, if any.
 - c. Character references (two) if a single proprietor.
 - d. A general statement regarding the firm financial arrangements available to carry out this contract effort.
4. Past Performance: List all applicable experience in this field of effort within the past three years.
5. Management Plan: Set forth here your plan for managing and controlling the contract effort. Summary statements and an overview of your organization structure is appropriate. Include also a brief narrative history of your organization and any other events or facts that can lead to a clear understanding of "how you got to where you are."
6. Personnel: Submit names and resumes of contract

responsibilities, education, and qualifying experience for key personnel to be assigned to this contract.

7. Subcontracting Summary: Present plans for subcontracting, if any, in this contract exclude references to dollar amounts.

8. EEO Plan: Summarize your plan to comply with the Equal Opportunity Obligations pursuant to Commissioner's Order 73-51, dated February 28, 1973.

9. Summarize any exceptions or deviations taken with regard to the requirements set forth in this section, if any.

CONCLUSIONS REGARDING RESEARCH QUESTIONS

The data and information reported in this chapter provided the basis upon which the following conclusions, pertaining to the research questions, were drawn:

Research Question Restated: Do administrators in the District of Columbia public higher education system feel that they need additional legal information for improved job-related decision making?

Conclusion: The results of Question 2, Section II of the Questionnaire (See page 49, sub-paragraph b) indicate that approximately 80 percent of the administrators feel that they need additional legal information. Additionally, the results of Section I of the Questionnaire (See page 46) appear to support that need. After considering this correlation of data, the researcher can conclude that administrators in the District of Columbia public higher education system feel that they need additional legal information for improved job-related decision making.

Research Question Restated: Can college administrators specify in observable terms their needs or desires for legal information?

Conclusion: The questionnaire used in this study (See Appendix A) was designed so that legal information needs (Part II of the Questionnaire) and desires (Part III of the Questionnaire) could be observed through written replies to the Questionnaires and by some analysis of those replies. The apparent sufficiency of the administrators' replies, as exhibited in Tables I through VI of this chapter and by the observations gleaned from the data by the researcher (See Analysis of Survey Data, pages 45 to 54, and Interpretation of Survey Data, pages 54 to 72) appear to support the conclusion that college administrators can specify in observable terms their needs and desires for legal information.

Research Question Restated: Can legal information needs be converted into a public contract performance specification?

Conclusion: Using the methodology developed for this study and outlined previously in Chapter 3, it appears that development of a performance specification as part of a Request for Proposal (RFP) can be accomplished. This specification, used in the RFP to indicate the specific work

to be accomplished, would also appear, in some slightly modified version, as part of the final Statement of Work in any resultant contract. The Technical Proposal Section of the model RFP was set forth in such a manner as to provide for the public entity doing the contracting to detail only the results to be achieved while giving the prospective contractor the flexibility of designing and carrying out his own approach or methodology for achieving the results. Analysis and replies from a panel of experts in procurement practices (See Exhibits G-3 through G-6) indicate that the performance specification contained in the model RFP could be used successfully in contracting for a study and handbook of legal principles pertaining to the District of Columbia public colleges. Therefore, the researcher can conclude that the legal information needs as expressed or identified in this study could be converted into a contract performance specification.

SUMMARY

The data collection process used in this study produced a 100 percent return of questionnaires. The questionnaire designed for the study appeared adequate for

the purpose of the study and provided sufficient data for observing perceived administrator legal information needs and desires.

The data collection process and subsequent analysis and interpretation was used as a basis for developing an outline of legal information topics and sub-topics that should be included in a study and handbook. A panel of experts in higher education administration and law was effective in producing a qualified outline of legal topics and sub-topics that should appear as elements of any study or handbook on legal principles of public higher education in the District of Columbia.

The researcher developed a draft model Request for Proposal (RFP) for use in actually obtaining the services of a contractor to accomplish the study and develop the handbook. A panel of experts in procurement processes was used to validate and finalize the model RFP.

The researcher concluded that the methodology proposed for this study could successfully be used to accomplish the purpose of the study and provide supportable answers to the research questions.

Chapter 5

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS FOR FURTHER STUDY

The study was concerned with three basic questions. The first question raised the issue of whether or not administrators of the District of Columbia public colleges perceived a need for additional legal information in order to make improved job-related decisions. The second question was concerned with whether or not these administrators could specifically identify their needs and desires for additional legal information. The third question dealt with whether or not the specified legal information needs could be used as a basis for a procurement document that would ultimately provide a study of the needed legal information and result in a legal handbook suitable for use by the administrators.

In the study, a questionnaire was designed, pre-tested, validated, and forwarded to all major public college administrators in the District of Columbia. The questionnaire was divided into three sections emphasizing the following data collection criteria:

- a. What information was generally known.
- b. What additional information was needed.
- c. What information was desired.

A 100% response to the questionnaire was achieved.

The results of the survey, reported in Chapter 4, indicated that the survey group had a generally low awareness of the more popular aspects of college and university law. However, this same group appeared to be aware of the specific legal aspects pertaining to the instruction or classroom activity. Also, based upon the survey data, it could be projected that the percentage of incorrect decisions in matters pertaining to student expulsion or suspension could be as high as 61 percent. Further results of the survey indicated that most of the group (80%) felt that they were not equipped with sufficient legal information to make decisions on matters of legal implication that could withstand a challenge in court.

A seemingly high percent (48%) of those surveyed had participated actively in job-related legal proceedings. This could be viewed as an indication that either the D. C. public college system was a precarious place to work or that several administrators had experienced legal problems in other educational systems. Further results pertaining to job-related decisions indicated that much time and effort was spent on decision-making requiring some degree of legal information (average of 26 percent).

Employment contracting deficiencies, fiscal administration, and policy conflicts appeared as frequent

problems for the survey group. This could indicate a lack of employment processes consistent with other educational systems, incompatible personnel practices of the three institutions, or simply a basic lack of understanding of what is required under the law. Fiscal problems could be attributable to staff turnover in fiscal offices, shortages of operational funds, lack of effective fiscal systems such as funds monitoring, frequent audits and reviews, or ambiguity in local institution, District Government, Federal Government, or grantee, rules, regulations or laws. Policy conflicts were most likely influenced by the nature of the colleges' organization and governance. Program control of the colleges was vested in the governing boards while the fiscal control, due to the institutions having Agency status, was vested in the Mayor (PL 89-791). In this situation, there appeared to be continuous opportunity for conflict of direction and purpose.

Tenure and accreditation problems appeared to be less frequent than any others. This probably indicated that the accreditation cycle was long enough to allow for adequate work planning and implementation rather than for crisis or panic activity due to short turn-around demands. Tenure appeared to be less time consuming, due to the fact that only one institution (DCTC) has tenure policies. Informal discussions with members of the survey group

revealed that collective bargaining has not been a problem to date, but its use as a pressure force is viewed as evolving.

As a final part of the survey, the group indicated their preference for specific kinds of legal information. This information resulted in a topic outline for a study and handbook of legal principles (See Table VI, page 65).

The topic outline developed from the survey results was analyzed and modified by a panel of experts in higher education law and administration. The modified topic outline (See Appendix F) was used by the researcher to develop a model Request for Proposal (RFP). The RFP was designed for use as the key instrument leading to the actual purchasing of services, by public contract, of an individual or organization to engage in the study and produce the handbook. The draft model RFP (See Appendix G-2) was submitted to a panel of experts in procurement for review and revision where necessary. The model RFP was modified as suggested by the panel.

CONCLUSIONS

With regard to the research questions, there appeared to be sufficient information generated by the research activity to adequately answer the questions. It can be reasonably concluded that:

a. Administrators of the public colleges in the District of Columbia do want and need additional legal information.

b. Administrators of the public colleges in the District of Columbia can specifically identify their needs and desires for legal information.

c. Expressed or identified legal information needs can be converted into a public contract performance specification.

With regard to the over-all methodology developed for this study, the researcher can conclude that its application appears to have been successful in producing a usable pre-definition study and complimentary RFP. The combination of defining procurement requirements through survey research, refining those requirements using a panel of experts, using the refined requirements to develop a model RFP, and qualifying the untested RFP by using another panel of experts, sets forth an approach to obtaining contract services of the nature of this study that does not appear to be documented. In this respect, new administrative methodology may be at hand.

RECOMMENDATIONS FOR FURTHER STUDY

This study was limited to the public colleges of the District of Columbia. However, the problems faced by

these colleges are very similar to other institutions nationwide. Further, to the extent that administrators of these colleges nationwide can be assumed to be similar in many respects to the District of Columbia public college administrators, it would appear that a similar survey, such as the one used in this study, should be taken to ascertain the extent of the legal knowledge base that exists regionally or nationally. The benefits to an educational system in obtaining this kind of information seem enormous in lieu of the time and dollars spent in the courtroom and out of the classroom. A secondary benefit of such a study or research activity would be the development of standardized instruments for comparative analysis in the area of higher education legal principles.

During the validation of the RFP, one of the panel members, a practicing attorney in contract law, indicated that while the RFP was probably adequate to gain a good proposal, the difficulty in the procurement process would probably occur during the negotiation of the actual contract document (See Exhibit G-2). It was indicated by the lawyer that the acceptability of the performance of the contractor would be based upon human judgment, as in most service contracts, leaving the contractor with little or no objective safeguards to indicate his expected level of quality of the performance or, in other

words, the level at which the contracting agency would be pleased with the work accomplished. In this respect, the researcher would recommend further study in the area of establishing or identifying objective criteris for subjective evaluation of contractor performance. With that effort, a parallel effort should be undertaken to study the type of contract suitable for a class of undertakings with the findings identified, justified, and categorized.

In retrospect, this study did not assign weighting factors to any response category. All responses, as well as respondents, were treated equally for the purpose of analysis of data. The researcher now believes that, in any follow-on studies, weighting or categorization factors should be considered in at least the following areas:

- a. Amount of exposure to legal orientation or legal education.
- b. Years of experience as an educational administrator.
- c. If the study is limited to a local or specific system, then experience within that system should also be a factor. If the above items are considered, the resultant analysis could be more useful in terms of analytical value and more meaningful in terms of comparative value.

Finally, the researcher highly recommends that the District of Columbia public colleges, their Boards of

Trustees, and the U. S. Congress join in an effort to actualize the study set forth herein. With the pending legislation to merge the public colleges into a single comprehensive multi-campus university about to become final, a study of the legal aspects of national and local educational law and their direct implications for the D. C. public colleges appears to be mandatory.

Publication of the study results in a handbook, as suggested herein, would go very far in decreasing the opportunity for decision-making obviously contrary to the law, while at the same time providing all administrators with an effective and dependable management tool.

REFERENCES CITED

- Alexander, Kern, and Erwin S. Solomon
1972 College and University Law. Charlottesville, Va.:
The Mitchie Company.
- Alexander, Kern, and Ruth Alexander
1973 Teachers and Torts. Middletown, Ky.: Maxwell
Publishing Co.
- Beaird, J. Ralph
1973 "Collective Bargaining in American Higher Educa-
tion: The Immediate Prospect." A paper presented
at the University of Georgia, Institute of Higher
Education, Conference on Higher Education.
Athens, Georgia. July, 1973.
- Bickel, Robert D.
1973 "The Relationship Between the University and Local
Law Enforcement Agencies in Their Response to the
Problems of Drug Abuse on Campus." A paper pre-
sented at the University of Georgia, Institute of
Higher Education, Conference on Higher Education.
Athens, Georgia. July, 1973.
- Bolton, Ralph A.
1966 Systems Contracting, a New Purchasing Technique.
New York: AMA.
- Brubaker, John S.
1971 The Courts and Higher Education. San Francisco,
Calif.: Jossey-Bass.
- Chambers, M. M.
1972 The College and the Courts. Danville, Illinois:
Interstate Printers and Publishers.
- Currie, O., and E. Wasson
1973 "Turnkey Government Contracts--Who's Who and
What's What." Vol. 10, Yearbook of Procurement
Articles. Wash., D. C.: Federal Publications Inc.
- Edwards, Newton
1971 The Courts and the Public Schools. Chicago: Univ.
of Chicago Press.
- Jones, Ralph
1973 Methods and Techniques of Educational Research.
Danville, Illinois: Interstate Press.

- Kerlinger, Fred N.
1974 Foundations of Behavioral Research. New York:
Bolt Publishing Company.
- Lee, Calvin B.
1970 The Campus Scene, 1900 - 1970. New York: Van
Rees Press.
- Lundberg, George A.
1942 Social Research: A Study in Methods of Gathering
Data. New York: Longmans, Green and Company.
- Miller, Delbert C.
1971 Handbook of Research Design and Social Measures.
New York: David McKay Publishing Company.
- National Association of College and University Attorneys
1974 "Access to Student Records." Special Report 74-4.
Washington, D. C. October, 1974.
- Nolte, M. Chester
1971 School Law in Action. Nyack, N. Y.: Parker Pub-
lishing Company.
- Parten, M.
1966 Surveys, Polls and Samples. New York: Harper and
Row.
- Phay, Robert E., Editor-in-Chief
1973 Yearbook of School Law. Topeka, Kansas: National
Organization on Legal Problems of Education (NOLPE).
- Randolph, Harland L.
1970 The President's Report. Wash., D. C.: Federal
City College Press.
- Schrier, Fred T.
1963 Modern Marketing Research: A Behavioral Science
Approach, Belmont, Calif.: Wadsworth Publishing Co.
- Seitz, Reynolds C.
1973 "Legal Responsibilities of Administrators." A
paper presented at the University of Georgia,
Institute of Higher Education, Conference on Higher
Education. Athens, Georgia. July, 1973.
- Slepin, Stephen M.
1973 "Constitutional Rights and Non-Renewal of Faculty
Contracts." A paper presented at the University of
Georgia, Institute of Higher Education, Conference
on Higher Education. Athens, Georgia. July, 1973.

- Tonigan, Richard
1972 "A Charrette Can Help Reduce Planning Time."
School Management (April): 12-14.
- Travers, Robert M.
1969 An Introduction to Educational Research. New
York: The McMillan Company.
- Washington, Walter L.
1973 Fiscal Year 1973 Budget Request for the District
of Columbia. Wash., D. C.: D. C. Government
Printing Office.
- Wallerstein, Immanuel
1969 University in Turmoil. New York: Atheneum.
- Watson, Donald A.
1964 Specification Writing for Architects and Engi-
neers. New York: McGraw-Hill.
- Weaver, W. T.
1971 "The Delphi Forecasting Method." Phi Delta
Kappan (LII:5): 267-271.
- Yankelovich, Daniel
1972 The Changing Values on Campus. New York: Pocket
Books.
- Young, D. Parker
1973 "Rights and Responsibilities on Campus." A paper
presented at the University of Georgia, Institute
of Higher Education, Conference on Higher Educa-
tion. Athens, Georgia. July, 1973.
- Young, Pauline V.
1950 Scientific Social Surveys and Research. New York:
Prentice-Hall.
- 1961 Monroe v. Pape, 365 U.S. 167.
- 1968 McLaughlin v. Tilendis, 398 F.2d. 287 (7th Cir.)
- 1969 Tinker v. Des Moines Community School District,
393 U.S. 503.
- 1970 Harkless v. Sweeny Independent School District,
427 F.2d. 319 (5th Cir.)
- 1970 42 U.S.C.A. 1983, Civil Rights Act of 1971.

Meyers, Andrew, Reporter

- 1975 "Teacher Wins Back Job, Granted \$104,000 Damages."
Washington (D.C.) Post, May 2, 1975, p. A3, cols.
6, 7, and 8.

National Aeronautics and Space Administration

- 1970 Procurement Regulations, Part II, Subpart 5, (NHB
5100.2), March, 1970. U. S. Government Printing
Office, Washington, D. C.

District of Columbia, Department of General Services

- 1974 Materiel Management Manual, Part Three, 1974.
District of Columbia Government Printing Office,
Washington, D. C.

Federal City College

- 1975 Manual of Administration, July, 1975. Federal
City College, Financial Management Division,
Washington, D. C.

1964 Civil Rights Act of 1964, PL 88-352.

1972 Education Amendments of 1972, PL 92-318.

1966 District of Columbia Public Higher Education Act
of 1966, PL 89-791.

APPENDIX A-1

7520 Riverdale Road
New Carrollton, Maryland 20784

May 28, 1975

Dear (Survey Participants)

I am a doctoral candidate in the College of Education, Division of Administrative and Educational Services, at Virginia Polytechnic Institute and State University. Currently, I am conducting a study of "Legal Information Needs of Public Higher Education Administrators in the District of Columbia." This study is being conducted under the direction of Dr. David Alexander, major advisor and chairman of my dissertation committee. Your college president is aware of this survey.

The availability of several specific aspects of college and university law pertaining to the District of Columbia, in a synthesized and understandable form, is seen as a vital necessity for sound decision making in a developing higher education system. I would like to invite you to participate in this research project which I am undertaking and to share your perceptions and opinions of the need for such legal information.

I hope you will see the importance of this research study and complete every item on the attached questionnaire. As a protection of your confidence, no names will be used to identify the respondents; however, each questionnaire has been coded for follow-up purposes only. It should be understood that all information will be treated in a professional and confidential manner.

Please respond to the enclosed questionnaire and summary request form, place them in the attached self-addressed, stamped envelope, seal, and return them to the above address at your very earliest convenience.

Thank you for your complete cooperation in my regards. I shall look forward to mailing you a summary of the findings.

Very sincerely yours,

John E. M. Green, Jr.
Doctoral Candidate

Dr. David Alexander
Major Advisor

Enclosures
JEMG:ag

APPENDIX A-2

QUESTIONNAIRE

SECTION I. This section contains general statements pertaining to several aspects of college and university law. Please indicate whether you believe the statement is true or false or that you are unsure of the correct reply by placing a check (✓) in one of the underlined spaces provided

TRUE FALSE NOT SURE

- | | | | |
|---------------|---------------|---------------|---|
| <u> </u> | <u> </u> | <u> </u> | 1. Tort liability includes minor criminal acts. |
| <u> </u> | <u> </u> | <u> </u> | 2. The 1871 Civil Rights Act was enacted to enforce the provisions of the Fourteenth Amendment to the Constitution in preventing discrimination against Blacks? |
| <u> </u> | <u> </u> | <u> </u> | 3. The 1871 Civil Rights Act has found new application against administrators primarily in cases involving discrimination and dismissal of administrative employees. |
| <u> </u> | <u> </u> | <u> </u> | 4. Faculty and staff in the District of Columbia Public Colleges have government immunity and therefore are not liable for action in tort. |
| <u> </u> | <u> </u> | <u> </u> | 5. Defamation by written communication is slander |
| <u> </u> | <u> </u> | <u> </u> | 6. In some states, truth is a defense for a defamation action. |
| <u> </u> | <u> </u> | <u> </u> | 7. Generally, a college may suspend or expel a student when he commits a crime off campus even though it does not have a direct and immediate impact on the school. |
| <u> </u> | <u> </u> | <u> </u> | 8. The leading case in the area of student expulsion is considered to be Dixon v. Alabama State Board of Education (294 F.2d 150). |
| <u> </u> | <u> </u> | <u> </u> | 9. The Fourth Amendment's prohibition against unreasonable searches and seizures, as applied to states and their instrumentalities, is generally inapplicable to school searches. |

TRUE FALSE NOT SURE

- | | | | |
|-------|-------|-------|---|
| _____ | _____ | _____ | 10. Generally, a teacher can be held liable for injuries which result from the sudden and unpredictable acts of students. |
| _____ | _____ | _____ | 11. A tenured teacher does not have a vested right in a particular position. |

END OF SECTION I. BE SURE YOU HAVE ANSWERED ALL
QUESTIONS IN THIS SECTION BEFORE GOING ON TO THE NEXT
PAGE.

SECTION II. This section contains several questions pertaining to job-related legal information needs. Please indicate your answer by placing a check (✓) in one of the underlined spaces provided, or provide an answer appropriate to the question where a check (✓) is not applicable.

1. Do you ever have to make job-related decisions based on knowing what the pertinent law is? YES _____ NO _____ UNSURE _____
2. At this time, do you feel that you have all the legal information necessary to make the job-related decisions that can withstand a challenge in Court? YES _____ NO _____ UNSURE _____
3. Have you ever been a participant in a legal action related to your higher education job? YES _____ NO _____ UNSURE _____
4. Do you believe that you are immune from court action for all decisions you might make in the performance of official duties? YES _____ NO _____ UNSURE _____
5. Of the day-to-day decisions you make on your job, estimate the percent of all decisions requiring some knowledge of legal principles. _____%
6. What kinds of legal information are most important to your position? (List the five (5) most important) (Faculty Rights, Comptroller General Decisions, Employment Contract Laws, etc.)
 - a. _____
 - _____
 - b. _____
 - _____
 - c. _____
 - _____
 - d. _____
 - _____
 - e. _____
 - _____
7. List the most frequent legal problem you face in the performance of your duties:

8. Listed below are several problems of the type that administrators encounter on the job which usually require some knowledge or understanding of appropriate legal principles or some other basis approximating a law. Please indicate, by the circling the proper number, how often you have to handle:

	<u>FREQUENTLY</u>	<u>OCCASIONALLY</u>	<u>RARELY</u>
a. Student Grievances	3	2	1
b. Financial Problems	3	2	1
c. Employment Contract Problems	3	2	1
d. Salary disputes	3	2	1
e. Promotion Problems	3	2	1
f. Tuition Problems	3	2	1
g. Due Process Problems	3	2	1
h. Tenure Problems	3	2	1
i. Capital Outlay Problems	3	2	1
j. Budget Problems	3	2	1
k. Policy conflicts	3	2	1
l. Student Dismissal Problems	3	2	1
m. Student Fee Problems	3	2	1
n. Position Authority Problems	3	2	1
o. College Judicial System Problems (Faculty)	3	2	1
p. College Judicial System Problems (Students)	3	2	1
q. Public or Community complaints	3	2	1
r. Accreditation Related Problems	3	2	1

END OF SECTION II. BE SURE THAT YOU HAVE ANSWERED ALL

QUESTIONS IN THIS SECTION BEFORE GOING ON TO THE NEXT PAGE.

SECTION III. This section contains several legal topics and the legal elements generally discussed within the topics. Please express your opinion of the necessity of these topics and elements to be included in a major study of public higher education law that would emphasize the conduct and application of such law in the District of Columbia Public Higher Education System. On a scale from one to four--one being the least necessary and four being the most necessary--indicate your selection by placing a circle around your choice. At the end of this section, you may add additional aspects as you deem necessary.

	<u>MOST</u> <u>NECESSARY</u>	<u>NECESSARY</u>	<u>SOMEWHAT</u> <u>NECESSARY</u>	<u>LEAST</u> <u>NECESSARY</u>
LEGAL STRUCTURE OF PUBLIC HIGHER EDUCATION IN THE NATION'S CAPITOL				
Organization and Governance	4	3	2	1
The Court System	4	3	2	1
Institutions as Creatures of the Federal Congress	4	3	2	1
Basis for Laws, Regulations, Rules and Policies	4	3	2	1
Control of Public Higher Education	4	3	2	1
FINANCE AND ADMINISTRATION OF PUBLIC HIGHER EDUCATION				
Legal Aspect for Revenue				
Legal Aspects of the Budgetary Cycle	4	3	2	1
Federal Limitations in Fiscal and Program Management	4	3	2	1
The Federal Anti-Deficiency Act	4	3	2	1
Capital Outlay Programming	4	3	2	1
Taxation	4	3	2	1
Charitable Trust	4	3	2	1

	<u>MOST</u> <u>NECESSARY</u>	<u>NECESSARY</u>	<u>SOMEWHAT</u> <u>NECESSARY</u>	<u>LEAST</u> <u>NECESSARY</u>
CONSTITUTIONAL RIGHTS OF STUDENTS				
Student-University Relationship	4	3	2	1
In Loco Parentis	4	3	2	1
Privilege	4	3	2	1
Contract	4	3	2	1
Trust	4	3	2	1
Fiduciary	4	3	2	1
Constitutional	4	3	2	1
First Amendment Rights	4	3	2	1
Freedom of the Press	4	3	2	1
Freedom of Speech	4	3	2	1
Freedom of Assembly	4	3	2	1
Freedom of Religion	4	3	2	1
Personal Appearance	4	3	2	1
Grades	4	3	2	1
Violation of Criminal Law Off Campus	4	3	2	1
Damage or Destruction of Property	4	3	2	1
Weapons on School Grounds	4	3	2	1
Search and Seizure	4	3	2	1
Mass Hearings	4	3	2	1
Double Jeopardy	4	3	2	1
Procedural Due Process	4	3	2	1
Notice	4	3	2	1
Hearing	4	3	2	1

	<u>MOST</u> <u>NECESSARY</u>	<u>NECESSARY</u>	<u>SOMEWHAT</u> <u>NECESSARY</u>	<u>LEAST</u> <u>NECESSARY</u>
Right to Counsel	4	3	2	1
Inspection of Evidence	4	3	2	1
Trier of Fact--Impartiality of the Hearing	4	3	2	1
Witness--Cross-Examination, Confrontation, and Compulsory Production	4	3	2	1
Self Incrimination	4	3	2	1
Sufficiency of Evidence	4	3	2	1
Transcript of Hearing	4	3	2	1
Appeal	4	3	2	1
Immediate Suspension	4	3	2	1
Expulsion	4	3	2	1
Student Records	4	3	2	1
Discrimination	4	3	2	1
1871 Civil Rights Act	4	3	2	1
STUDENT FEES AND TUITION:				
Basis for Fees and Tuition	4	3	2	1
Uses of Student Fees	4	3	2	1
Disposition and Uses of Incidental Fees and Tuition	4	3	2	1
The Question of Residency	4	3	2	1
Foreign Students	4	3	2	1
FACULTY AND OTHER PERSONNEL				
Academic Freedom	4	3	2	1
Loyalty Oaths	4	3	2	1
Political Activity	4	3	2	1

	<u>MOST</u> <u>NECESSARY</u>	<u>NECESSARY</u>	<u>SOMEWHAT</u> <u>NECESSARY</u>	<u>LEAST</u> <u>NECESSARY</u>
Classroom Activities	4	3	2	1
Privilege Against Self-Incrimination	4	3	2	1
Tenure	4	3	2	1
Employment Contracts	4	3	2	1
Contract Renewal	4	3	2	1
Dismissal of Contract Employee	4	3	2	1
Dismissal of Tenured Faculty	4	3	2	1
Dismissal of Non-Tenured Faculty	4	3	2	1
Collective Bargaining	4	3	2	1
Retirement Benefits	4	3	2	1
TORT LIABILITY OF PUBLIC HIGHER EDUCATION PERSONNEL				
Grounds for Tort Action	4	3	2	1
Elements of Negligence	4	3	2	1
Defenses for Negligence	4	3	2	1
Defamation	4	3	2	1
Nuisance	4	3	2	1
Liability of College Administrators and Officers	4	3	2	1
Immunity	4	3	2	1
Personal Liability under the 1871 Civil Rights Act	4	3	2	1
OTHER RELATED LEGAL MATTERS				
Desegregation	4	3	2	1
Accreditation	4	3	2	1

	<u>MOST</u> <u>NECESSARY</u>	<u>NECESSARY</u>	<u>SOMEWHAT</u> <u>NECESSARY</u>	<u>LEAST</u> <u>NECESSARY</u>
Copyright	4	3	2	1
Affirmative Action Programs in the D.C. Public Institutions	4	3	2	1
<u>(you may add additional aspects and elements as you feel necessary)</u>				
_____	4	3	2	1
_____	4	3	2	1
_____	4	3	2	1
_____	4	3	2	1
_____	4	3	2	1
_____	4	3	2	1
_____	4	3	2	1
_____	4	3	2	1

END OF SECTION III. THERE ARE NO MORE PARTS TO THIS
QUESTIONNAIRE. THANK YOU FOR YOUR ASSISTANCE. PLEASE
PLACE IN THE RETURN ENVELOPE AND MAIL WITHOUT DELAY.

REQUEST FORM FOR
SUMMARY OF THE FINDINGS

Please indicate by checking the appropriate box if
you would like to have a summary of the findings of
this study.

Yes, I would like to have a summary of the
findings.

No, I would not like to have a summary of the
findings.

APPENDIX B

Superior Court of the District of Columbia
Chambers of Judge Harry T. Alexander

May 28, 1975

Mr. John E. Green
7520 Riverdale Road
New Carrollton, Maryland 20784

Dear Mr. Green:

The revised questionnaire that you propose to use in your survey of D.C. public college administrators appears to be suitable for the purpose of your study.

As a member of your review panel, I am looking forward to reviewing the survey results. Good luck with your survey, and best wishes.

Sincerely,

Harry Toussaint Alexander

APPENDIX C

7520 Riverdale Road
New Carrollton, Maryland 20784

May 28, 1975

Dear

Recently, you received a questionnaire about a study being conducted at Virginia Polytechnic Institute and State University. A major focus of the study is to ascertain the need for legal information by public college administrators in order to more adequately carry out their day-to-day duties.

It is of utmost importance that your perceptions and opinions be included in the final analysis and interpretation of the data. Please take a moment, complete the questionnaire, and mail it at your earliest convenience. Don't neglect to mail the "Summary Request Form" if you are interested in obtaining a copy of the findings of the study.

Thanking you in advance.

Sincerely yours,

John E. M. Green, Jr.

JEMG:ag

APPENDIX D

DISTRICT OF COLUMBIA BOARD OF HIGHER EDUCATION
1025 VERMONT AVENUE, N. W.
SUITE 606
WASHINGTON, D. C. 20005

March 4, 1975

MEMORANDUM

TO: Members of the Board of Higher Education

FROM: Clifton B. Smith, Special Assistant

SUBJECT: The Supreme Court and Student Rights

In the matter of a few months, the Supreme Court has broadened the concept of student rights by seemingly carving out a constitutional right to an education. By establishing that students have a proprietary interest in obtaining an education, the Supreme Court has ruled that a denial or curtailment thereof without the strictures of due process is unconstitutional.

I. Immunity From Liability
Wood, et al. v. Strickland, et al.
(February 25, 1975)

This case held that public school officials (board members and college officials) are not immune from liability for damages if they are aware that their actions, occurring within the discharge of their official duties, either violated the constitutional rights of the students affected or if their actions were taken with the malicious intention to cause a deprivation of student rights.

Involved in the case was an expulsion of three public school students on the basis of inadequate or nonexistent evidence.

Writing for the majority, Justice White stated:

" . . . A school board member, who has voluntarily undertaken the task of supervising the operation of the school and the activities of the students, must be held to a standard of conduct based, not only on permissible intentions, but also on knowledge of the basic, unquestioned constitutional rights of his charges."

Dissenting from the majority on the question of immunity, Justice Powell, former head of the Richmond and Virginia Boards of Education, wrote:

"In view of today's decision significantly enhancing the possibility of personal liability, one must wonder whether qualified persons will continue in the desired numbers to volunteer for service in public education."

II. Due Process Requirements in Suspensions

Goss, et al. v. Lopez, et al.
(January 22, 1975)

In a case involving alleged student unrest in public schools in Columbus, Ohio, several students were suspended from classes for reasons of misconduct for 10 - 20 days. A class action suit was brought against Norval Goss, et al., administrators of the school system in question, seeking a declaratory ruling to the effect that the Ohio statute permitting such suspensions was unconstitutional.

Having lost in District Court, the school administrators appealed to the Supreme Court which held that students facing temporary suspension from a public school cannot be suspended without an opportunity to be heard on the matter.

While finding the Ohio statute in question unconstitutional, Justice White, again writing for the majority, stated:

"Having chosen to extend the right to an education to people of appellees' class generally, Ohio may not withdraw that right on grounds of misconduct absent fundamentally fair procedures to determine whether the misconduct has occurred."

Going further, the Court added:

"The authority possessed by the State to prescribe and enforce standards of conduct in its schools . . . must be exercised consistently with constitutional safeguards. Among other things, the State is constrained to recognize a student's legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that clause."

Since misconduct charges, if sustained and recorded, could seriously damage the student's reputation as well as interfere with later educational and employment opportunities, the Court reasoned that a State's claimed right to determine unilaterally and without process whether the alleged misconduct occurred collides with the Due Process Clause's prohibition against arbitrary deprivation of liberty.

Again, writing for the minority in dissent, Justice Powell declared:

"The decision unnecessarily opens avenues for judicial intervention in the operation of our public schools that may affect adversely the quality of education."

Continuing in his strongly worded dissent, Justice Powell proclaims:

"The Court holds for the first time that the federal courts, rather than educational officials and state legislatures, have the authority to determine the rules applicable to routine classroom discipline of children and teenagers in public schools. It justifies this unprecedented intrusion into the process of elementary and secondary education by identifying a new constitutional right: the right of a student not to be suspended for as much as a single day without notice and a due process hearing either before or promptly following the suspension.

Although the issue in Goss was an unconstitutional suspension statute (not allowing for a hearing), the same due process requirements extend to the more severe impositioning of an expulsion.

Recommendation

The College should begin forthwith to develop and recommend to the Board a code of student conduct, a procedure under which constitutional guarantees as referred to in Goss are expressly stated and adhered to.

APPENDIX E-1

7520 Riverdale Road
New Carrollton, Maryland 20784

June 27, 1975

Dear (Panel Members)

Finally, I have completed the survey of D.C. public college administrators. As you know, the total population of administrators (educational and academic) at the three public colleges and occupying positions at major division levels and above, were included in the survey. Also, a 100% questionnaire response was achieved.

Attached, you will find a copy of the questionnaire used as well as a preliminary data analysis and interpretation of the survey results. Table VI (pages 57 to 60) shows an outline of a study and handbook based upon the opinions of the administrators surveyed. It is this outline that I wish you to address in your review and comments. I would like you to consider the following:

- a. Suggest additions, deletions, corrections or any other modification that you feel would enhance the usage of the study and handbook.
- b. Suggest any special considerations that a legal researcher should be aware of as (he)(she) proceeds to perform a study of these legal aspects for the D.C. public college system.
- cc. Any other pertinent comments relative to the content, context, or format of the study, results, and resultant handbook.

I have enclosed a self-addressed, stamped envelope for your convenience in returning your response.

Thanks so much for your kindness and assistance. I am looking forward to sending you a copy of the completed dissertation.

Sincerely yours,

Encl:
as stated

John E. Green

APPENDIX E-2

*Board of Governors
of State Colleges and Universities*

222 COLLEGE STREET
SPRINGFIELD, ILLINOIS 62706
AREA CODE 217/782-6392

June 30, 1975

JEROME M. SACHS
*Acting Executive Officer
and Secretary*

ROBERT A. PRINGLE
Associate Executive Officer

JAMES T. BROWN
*Financial Officer
and Treasurer*

RICHARD T. DUNN
Legal Counsel

Members

Chairman
JEFFREY R. LADD
Crystal Lake

Vice Chairman
PETER LARDNER
Rock Island

FELICITAS BERLANGA
Normal

DOMINICK J. BUFALINO
Norwood Park Township

JAMES J. CICERO
Chicago

LEON DAVIS
Chicago

HAROLD FAY
Alton

MRS. EVELYN KAUFMAN
LaSalle

MRS. WARREN RELPH
Peru

*One Student
Representative from
each University*

GOVERNING BOARD FOR
CHICAGO STATE UNIVERSITY
Chicago
EASTERN ILLINOIS UNIVERSITY
Charleston
GOVERNORS STATE UNIVERSITY
Park Forest South
NORTHEASTERN ILLINOIS UNIVERSITY
Chicago
WESTERN ILLINOIS UNIVERSITY
Macomb

Mr. John E. Green, Jr.
7520 Riverdale Road
New Carrollton, Md. 20784

Dear Mr. Green:

I was most pleased to have the opportunity to review the work you have completed and your well developed plans for completion of your dissertation requirements. Your work reflects substance and quality. So many dissertations tend to be "much ado about nothing" or, a serious subject shoddily treated.

Your topic is of great significance for the District of Columbia and is both timely and relevant to higher education in general. As universities pass from an era of dissent to a new era of litigation, attention must be focused on the legal aspects of higher education. I believe your study will be an invaluable contribution in this regard.

You have asked me to comment on your outline of a study and handbook. Further, you indicate that I should make any additions, deletions, corrections or modifications I think will enhance usage of the product.

Within the limitations you have imposed on your project, there seems to be little or no need for any modifications. I believe your efforts to date represent first class scholarship and creative endeavor. I am therefore reluctant to suggest any significant changes. What I shall do, in response to your request, is list some ideas and observations that you may or may not consider.

First, it may be possible to more clearly convey to the reader the contents of a section of the study and handbook by making the topics more understandable. For instance, under Finance and Administration of Public Higher Education, perhaps

Mr. John E. Green, Jr.
June 30, 1975
Page 2

"Legal basis for funding" is more explanatory than "Legal aspects for revenue". Review each of these with a colleague to see if he/she can determine proposed content from the topic outline.

My only other comment relates to what I think may be a minor omission. I know a line must be drawn somewhere if an academic project is to be terminal, but since the vast majority of current litigation in higher education today relates to the Civil Rights Act of 1964, (made applicable to higher education by the Education Amendment of 1972) some attention should be given to this Act. Both Title VI and Title IX probably create a greater danger potential for higher education than any other aspect of the law at this time.

I hope I will have an opportunity to see a finished copy of your dissertation when the job is done. I am confident it will reflect your high ability and intelligence.

Sincerely yours,

James T. Brown, Ph.D.
Financial Officer
& Treasurer

JTB:ljm

APPENDIX E-3

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL
 DISTRICT BUILDING
 WASHINGTON, D. C. 20004



IN REPLY REFER TO:
 CP:JPR:bpr

July 1, 1975

MEMORANDUM TO: John Green

IN RE: Selected Legal Topics and Elements for
 Inclusion in a Study and Handbook

An underlying suggestion to run throughout the outline would be that administrators, faculty and students acquaint themselves with who and where legal counsel is, its function and how to avail themselves of same. It would also be helpful to know the metes and bounds of the judicial system and its function.

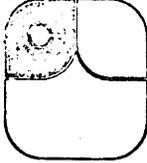
Any discussion of constitutional rights of students should also envisage those same rights of the administrators and faculty and the interrelationship of all of three. A discussion of the function of this educational process to the student would be in order, as well as the responsibilities of the students to themselves and the process. Such discussions of student responsibilities would similarly arise under the contractual theory of student-university relationships.

I would question if there is a substantive basis for distinction between criminal acts on campus as opposed to elsewhere.

As with discussions of student functions and relationships, it certainly would be valid to require faculty and administration concepts to equal scrutiny.

JOHN P. RODDY
 Assistant Corporation Counsel, D. C.
 District Building, Room 320
 Washington, D. C. 20004
 629-4958

APPENDIX E-4



THE FEDERAL CITY COLLEGE

Washington, D.C. 20001

July 8, 1975

Mr. John E. Green
7520 Riverdale Road
New Carrollton, Maryland 20784

Dear Mr. Green:

This is in reply to your letter of June 27, 1975 pertaining to a review and discussion of your proposed study and handbook outline.

It is obvious that you have spent many hours of effort in bringing your study to the point at which I am involved. Also, for the purpose of your study, the scope of subject matter appears adequate and useful. However, to summarize and document our recent meeting, I would offer the following comments that could be helpful in establishing your final outline:

1. Remember that Vice Presidents, Deans and Department Chairmen have different problems, therefore, citation of cases or subject discussion should include the concerns of all levels of administration.
2. Readability should be a major concern in the development of the handbook wording. Most handbooks are so turgid as to be totally unreadable.
3. The outline, for the most part, is self-explanatory. However, it may help to include sub-topics or explanations under the titles of "Legal Structures.....Capital" and "Finance and Administration..... Education." This would be particularly important to a prospective proposer when responding to your RFP.

Mr. John E. Green

July 8, 1975

2

It has been my pleasure to work with you on your review panel. If I can be of further assistance to you in this matter, please do not hesitate to call on me.

Sincerely yours,

Andress Taylor, Ph.D.

APPENDIX E-5

Superior Court of the District of Columbia
Chambers of Judge Harry T. Alexander

July 10, 1975

Mr. John E. Green, Jr.
7520 Riverdale Road
New Carrollton, Maryland 20784

Dear Mr. Green:

This is to advise that your preliminary data analysis, as well as your interpretation of the survey results pertaining to the District of Columbia Public College Administrators Survey conducted by questionnaire reflect above average performance on your part. That you received a one-hundred percent questionnaire response is no doubt indicative of the intense interest in the subject matter among college administrators in the City. It is also a contribute to the intense interest you generated by your method.

Notwithstanding the foregoing views, I was nevertheless chagrined and distressed to learn that public administrators of our colleges are not concerned with the appearance of our future leaders, and apparently they could care less about the relationship and impact that our courts have on citizens and institutions. These deficiencies are no doubt due to a case of history repeating itself. The system neglected and still refuses to teach Black people about the injustices in our Country and how to redress their grievances.

It is my belief that public college administrators, as well as administrators in all of our public institutions, must be taught basic knowledge about our Juvenile Justice System; our Criminal Justice System, as well as our Civil Justice System. This has not been on the agenda in public education in the Nation's Capital. Hence, Black people of all ages have no concept of the value of litigation or the injustices

-2-

that exist in the Juvenile and Criminal Justice Systems. My course, Legal Aspects of Counseling, instituted and once taught at Federal City College, was designed to, among other things, correct these deficiencies. The course has, however, gradually been dropped. To my knowledge there is no comparable course in the District of Columbia. It is therefore my conclusion that any outline study or handbook which failed to deal with these issues would suffer serious defects.

With respect to the appearance of our students, suffice it to say, that unless charm, poise, politeness, common courtesies and "public attire" are taught, some of our students will never learn them, and consequently will never ascend the ladder of success.

I trust there will be some way to address these issues.

Sincerely,

Harry Toussaint Alexander

APPENDIX E-6

DISTRICT OF COLUMBIA BOARD OF HIGHER EDUCATION
1025 VERMONT AVENUE, N. W.
SUITE 606
WASHINGTON, D. C. 20005

July 10, 1975

Mr. John E. Green
7520 Riverdale Road
New Carrollton, Maryland 20784

Dear Mr. Green:

I am delighted to be able to participate with you in your study, "Legal Information Needs of Public Higher Education Administrators in the District of Columbia". The study that you have undertaken in conjunction with your doctoral work at Virginia Polytechnic Institute and State University gives every appearance of being a first rate job. In addition, with a large number of society's members--individuals and institutions--resorting to the legal process, it is definitely timely.

Allow me at this time, however, to direct my attention to areas wherein certain additions or revisions are recommended.

1. I believe that your outline would be facilitated by an opening topic which would address the role of public higher education in the District of Columbia while pointing out the need for a handbook such as this. The opening topic (introduction, overview, etc.) should discuss the nature of the problem. (Topic #1.)
2. Following the above topic as Topic #2, I suggest that you set forth the purpose of the handbook to include the influence of certain legal decisions, past and present and their impact on higher education.
3. Following the above, I would then suggest inserting your topic "Structure of Public Higher Education in The Nation's Capital" and deleting the term "legal". Under this topic, you could add a subtopic or, if you prefer, set out as a separate topic the "Source of Authority" and go further to illustrate the role of the governing bodies, Board of Higher Education and Board of Vocational Education, established pursuant to Public Law 89-791.

4. Under topic "Control of Public Higher Education", I suggest substituting new terminology, preferably "Governance and Oversight" and deleting "Control" as too harsh. Under that topic, I suggest that you consider delineating those institutions responsible to and for public higher education in the District of Columbia, i.e., Board of Higher Education and Board of Vocational Education, the Mayor's office, City Council (D.C.), and the Congress--House District Committee, Senate District Committee, and the various subcommittees on education and appropriations.
5. Under "Student-University Relationships", I suggest that you include a section on "Admissions". In it you would set forth the legal precedent in the area of admissions policy, i.e., denial of admission.
6. Under "Freedom of Religion" insert the constitutional safeguard of "Right to Privacy" in "A. Records and Papers" and "B. Person".
7. Under "Grades" insert "Revocation and Withdrawal of Degrees".
8. The topics of "Expulsion" and "Immediate Suspension" should be under the topic of Constitutional Rights and could be entitled "Other Rights". Recent Supreme Court decisions have stated that students must be afforded constitutional due process hearings in matters involving the abortion or termination of the educational process, i.e., suspensions, terminations.
9. Under "Student Records" delineate the Buckley Amendment by correct title.
10. Add under "Discrimination" the many prohibited areas of discrimination contained in Title 34 of the D. C. Human Rights Act. Add also "reverse discrimination" as a discussion piece.
11. Under "Employment Contracts" add "Nonrenewal of Contracts".
12. Substitute "Labor-Management Relations in Public Higher Education" in place of "Collective Bargaining".
13. Correct "Liability of College Administrators and Officers" to read "Liability of College Administrators and Trustees".

14. Add new topic "Officers and Trustees Liability Insurance" under the above topic.
15. Add new topic "Public Policy and Law: Nondiscrimination in Higher Education" and reference your earlier topic on "Discrimination" under this new topic. Include:

Titles VI, VII of the Civil Rights Act of 1964; Title IX of the Higher Education Amendments prohibiting sex discrimination, and Title 34 of the Human Rights Act of the District of Columbia.

Under the same topic also discuss the potential loss of federal funds for discriminating institutions.

Again, I appreciate the opportunity to participate in your study and wish you much success in your educational program.

Sincerely,

Clifton B. Smith
Special Assistant

APPENDIX F

OUTLINE FOR A STUDY AND HANDBOOK
OF LEGAL ASPECTS OF PUBLIC HIGHER
EDUCATION IN THE NATION'S CAPITAL

ROLE OF PUBLIC HIGHER EDUCATION - AN OVERVIEW

National objectives

Public higher education in the District of Columbia

PURPOSE OF THE HANDBOOK

Influence of major legal decisions, past and present,
on higher education

Need for a handbook in the District of Columbia

STRUCTURE OF PUBLIC HIGHER EDUCATION IN THE DISTRICT OF
COLUMBIA

Sources of authority

District of Columbia Public Higher Education Act
of 1966 (PL 89-791)

Land grant acts (Smith-Lever Act, Bankhead-Jones
Act, 1860 Land Grant Act, 1890 Land Grant Act,
etc.)

Others as appropriate

Governance and Oversight

Board of Higher Education

Board of Vocational Education

Office of the Mayor

City Council

Federal Congress

FINANCE AND ADMINISTRATION OF PUBLIC HIGHER EDUCATION

Legal basis for funding

General operating programs

Capital outlay programs

Land grant programs

Miscellaneous grants and contracts

The budgetary cycle

Limitations in fiscal and program management

The Administrative Procedures Act

The Anti-Deficiency Act

Budgetary authority

Fiscal procedures

Bond authority

Federal and District administrative agencies

Taxation

CONSTITUTIONAL RIGHTS OF STUDENTS

Admission practices

Student-university relationships

Privilege

Contract

Fiduciary

Constitutional

First Amendment rights

Freedom of the press

Freedom of speech

Freedom of assembly

Freedom of religion

Right to privacy

Records and papers

Person

Personal appearance

Grades

Revocation and withdrawal of degrees

Violation of criminal law off campus

Damage or destruction of property

Weapons on school grounds

Search and seizure

Mass hearings

Immediate suspension

Expulsion

Procedural due process

Notice

Hearing

Right to counsel

Inspection of evidence

Trier of fact--impartiality of the hearing

Witness--cross-examination, confrontation, and compulsory production

Self-incrimination

Sufficiency of evidence

Transcript of hearing

Appeal

Student records

Family Educational Rights and Privacy Act of
1974 (PL 93-380)

1871 Civil Rights Act

STUDENT FEES AND TUITION

Basis for fees and tuition

Uses of student fees

Disposition and uses of incidental fees and tuition

Residency

Foreign students

FACULTY AND OTHER PERSONNEL

Academic freedom

Loyalty oaths

Political activity

Classroom activities

Tenure

Civil Service appointments

Employment contracts

Contract renewal

Non-renewal of contract

Privilege against self-incrimination

Dismissal of contract employee

Dismissal of tenured faculty

Dismissal of non-tenured faculty

Dismissal of Civil Service employee

Labor-management relations in public higher education

National trends

Status in the District of Columbia

Retirements

TORT LIABILITY OF PUBLIC HIGHER EDUCATION PERSONNEL

Grounds for tort action

Elements of negligence

Defenses for negligence

Defamation

Nuisance

Liability of college administrators and trustees

Immunity

Personal liability under the 1871 Civil Rights Act

Officer and trustee liability insurance

PUBLIC POLICY AND LAW: NON-DISCRIMINATION IN HIGHER EDUCATION

Title VI and VII, Civil Rights Act of 1964 (PL 88-352)

Title IX, Education Amendments of 1972 (PL 92-318)

Title 34, 1974 Human Rights Act of the District of Columbia

Others as appropriate

ORGANIZATION AND FUNCTION OF THE JUDICIAL SYSTEM IN THE DISTRICT OF COLUMBIA

District of Columbia Court Reorganization Act of 1970

Juvenile justice system

Criminal justice system

Civil justice system

OTHER RELATED LEGAL MATTERS

Desegregation

Accreditation

Affirmative action programs in District of Columbia

Impending reorganization of public higher education
in the District of Columbia

APPENDIX G-1

7520 Riverdale Road
New Carrollton, Maryland 20784

July 14, 1975

Dear (Panel Member)

Thank you for participating as a member of the Expert Panel in Procurement which will analyze the draft "Model Request for Proposal" which is attached. As you know, the RFP, when finalized by comments from the Review Panel, will become a part of my doctoral dissertation. Ultimately, it is hoped that the RFP will serve as the model for the actual government procurement of a study and handbook of legal aspects of public higher education in the District of Columbia.

As a reviewer of the model RFP, I would like you to address and comment upon any or all of the following:

- a. Feasibility of the performance required
- b. Realism of expected results
- c. Overall contents of the RFP
- d. Probability of the model to produce a meaningful proposal
- e. Any other aspects of the model RFP that could improve its usefulness

I have enclosed a self-addressed, stamped envelope for your convenience in returning your response.

Thank you for all of your kindness and assistance. I am looking forward to sending you a copy of the completed dissertation.

Sincerely yours,

John E. M. Green, Jr.

Encl.
as stated

JEMG:ag

APPENDIX G-2

(AGENCY LETTERHEAD)

REQUEST FOR PROPOSAL NO. _____

SERVICES SOLICITED: A STUDY AND HANDBOOK OF LEGAL ASPECTS OF
PUBLIC HIGHER EDUCATION IN WASHINGTON, D.C.

PRE-PROPOSAL CONFERENCE:

_____ WILL NOT BE HELD

_____ WILL BE HELD

DATE _____

TIME _____

PLACE _____

PROPOSALS DUE NOT LATER THAN:

DATE _____

TIME _____

TELEGRAPHIC RESPONSE:

_____ ACCEPTABLE

_____ NOT ACCEPTABLE

COMMUNICATIONS IN REFERENCE TO THIS RFP:

ANY COMMUNICATIONS IN REFERENCE TO THIS RFP SHALL BE DIRECTED
TO THE FOLLOWING REPRESENTATIVE:

NAME: (Contracting Officer)
PHONE: (Telephone of Contracting Officer)
ADDRESS: (Address of Contracting Officer)

RFP ISSUED BY:

(SIGNATURE)
CONTRACTING OFFICER

DATE

(AGENCY LETTERHEAD)

REPLY TO
ATTN OF

RFP NO _____

PLEASE REVIEW THE ATTACHED REQUEST FOR PROPOSAL.
FURNISH THE INFORMATION REQUESTED BELOW AND RETURN
THIS PAGE BY THE EARLIEST PRACTICABLE DATE.

_____ DO INTEND TO SUBMIT A PROPOSAL

I

_____ DO NOT INTEND TO SUBMIT A PROPOSAL FOR
THE FOLLOWING REASONS:

COMPANY NAME:

AUTHORIZED SIGNATURE:

TYPED NAME AND TITLE:

DATE:

RETURN TO:

(Agency Title and Address)

Attention: (Contracting Officer)

PREFACE

This RFP is organized to promote orderly analysis and response. It is divided into two Parts as follows:

PART A: This Part requires no response. It contains information explaining the RFP and will assist in preparing and submitting proposals.

PART B: This Part contains specific instructions and details for the preparation of proposals.

Part B is further sub-divided into three (3)

Sections:

Section 1 Technical Proposal Instructions

Section 2 Cost Proposal Instructions

Section 3 Business Proposal Instructions

The Table of Contents immediately following gives further details of contents of these Parts and Sections.

TABLE OF CONTENTS

PART A	GENERAL INFORMATION	A1
	RFP SUMMARY	A1
	DELIVERABLE ITEMS AND SCHEDULE	A1
	CONTENTS OF PROPOSAL	A1
	ANTICIPATED AWARD DATE	A1
	TYPE OF CONTRACT	A1
	PROPOSAL EVALUATION	A1
	COMMITMENT OF PUBLIC FUNDS	A2
	EXPENSES RELATED TO OFFEROR SUBMISSIONS	A2
	DISPOSAL OF UNSUCCESSFUL OFFEROR'S PROPOSALS	A2
	UNNECESSARILY ELABORATE PROPOSALS	A2
	ORAL PRESENTATIONS	A2
	SUMMARY OF DEVIATIONS/EXCEPTIONS	A2
	INSTRUCTIONS FOR ASSEMBLING, PACKAGING & SUBMITTING THE PROPOSAL	A3
	HAND CARRIED PROPOSALS	A4
	FALSE STATEMENTS	A4
	OTHER	A4
PART B	INSTRUCTIONS	
Section - 1	TECHNICAL PROPOSAL INSTRUCTIONS	B1-1
	GENERAL	B1-1
	INSTRUCTIONS	B1-2
	TOPIC OUTLINE FOR HANDBOOK	B1-4

TABLE OF CONTENTS (Continued)

Section - 2	COST PROPOSAL INSTRUCTIONS	B2-1
	GENERAL	B2-1
	INSTRUCTIONS	B2-1
	COST AND PRICE SUMMARY FORM	B2-4
Section - 3	BUSINESS MANAGEMENT PROPOSAL INSTRUCTIONS	B3-1
	GENERAL	B3-1
	INSTRUCTIONS	B3-2

PART A

Page A1GENERAL INFORMATION

RFP SUMMARY: This RFP calls for a contractor to perform a study of the legal aspects of public higher education in Washington, D.C. and prepare a handbook of those aspects for general reference use by public college administrators. The handbook is not expected to be a substitute for expert legal advice and should not exceed ___ pages.

DELIVERABLE ITEMS AND SCHEDULE: See Part B, Section - 1, Page B1-1

CONTENTS OF PROPOSAL:

1. Offeror's Approach to the Study (Technical Proposal)
2. Offeror's Cost and Price Summary (Cost Proposal)
3. Offeror's Business Approach to the contract (Business Management Proposal)

ANTICIPATED AWARD DATE: (Date)

TYPE OF CONTRACT: (FIRM FIXED PRICE, COST PLUS INCENTIVE FEE, ETC.)

PROPOSAL EVALUATION: The technical, cost and business proposals will be evaluated against evaluation criteria as set forth in Part B, Sections 1, 2, and 3 of this RFP. The technical proposal will be point scored in accordance with weighted evaluation criteria established and approved prior to receipt of proposals. The cost and business proposals will not be point scored; however, the inter-relationships among the technical, cost and business management proposals will be assessed consistent with (Agency) requirements to obtain the most advantageous contract---price, quality and other factors considered.

COMMITMENT OF PUBLIC FUNDS: The Contracting Officer is the only individual who can legally commit the (Agency) to the expenditure of public funds in connection with the proposed procurement.

Any other commitment, either explicit or implied, is invalid.

EXPENSES RELATED TO OFFEROR SUBMISSIONS: This RFP does not commit the (Agency) to pay any costs incurred in the submissions of proposals or in making necessary studies for the preparations thereof, nor to procure or contract for services or supplies.

DISPOSAL OF UNSUCCESSFUL OFFEROR'S PROPOSALS: After award of contract, one copy of each proposal will be retained in the official contract files and all other copies will be destroyed.

UNNECESSARILY ELABORATE PROPOSALS: Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness.

Elaborate art work, expensive paper and bindings, and expensive visual or other presentation aids are neither necessary nor desired.

ORAL PRESENTATIONS: The (Agency) may require oral presentations from any or all of the offerors. Offerors will be notified of the time, place and format for such presentations.

SUMMARY OF DEVIATIONS/EXCEPTIONS: The offeror will explain any deviations, exceptions or conditional assumptions taken with respect to any part of the RFP. Exceptions and/or deviations should be summarized at the end of the appropriate Part and Section of the RFP.

Page A3

Any exceptions taken must carry sufficient amplification and justification to permit evaluation. Such exceptions will not, of themselves, automatically cause a proposal to be termed unacceptable. A large number of exceptions, or one or more significant exceptions not providing any obvious benefit to the (Agency) may, however, result in rejection of such proposal (s) as unacceptable.

INSTRUCTIONS FOR ASSEMBLING, PACKAGING & SUBMITTING THE PROPOSAL:

Organization of the Proposal: Your proposal shall be organized the same as the RFP, Part B; that is, the same number of Sections and the information requested in each Section. Instructions regarding the contents of the Sections are contained in each Section described in the RFP, Part B. Each Section shall be physically separate.

Number of Copies to be Submitted:

Letter of Transmittal --- Original plus 2 copies

Technical Proposal --- six (6) copies

Cost Proposal --- six (6) copies

Business Management Proposal --- six (6) copies

External Marking: Each proposal package to be mailed should be marked for delivery to the address and individual indicated below:

ADDRESS: (Agency Bid Room Address)

ATTN: (Contracting Officer)

In addition, mark each package as follows:

"RESPONSE TO RFP NUMBER _____ DO NOT OPEN"

HAND CARRIED PROPOSALS: If proposals are to be hand carried, be certain they are closed and sealed as if for mailing. Hand carried proposals must be delivered to the (Agency) Bid Room. The (Agency) does not accept responsibility for proposals hand delivered to other than the (Agency) Bid Room.

FALSE STATEMENTS: Proposals must set forth full, accurate, and complete information as required by this RFP (including attachments). The penalty for making false statements in Proposals is prescribed in 18 U.S.C. 1001.

OTHER: (Include here all Agency "Boiler Plate" articles and/or provisions)

PART B

Page B1-1

SECTION - 1

TECHNICAL PROPOSAL INSTRUCTIONSGENERAL

STATEMENT OF WORK: The contractor shall perform a study of certain legal aspects of public higher education in Washington, D.C. and prepare a handbook suitable as a general reference document for college administrators. The study and resultant handbook shall be directed towards conveying sufficient information to enable a college administrator to understand the basic legal principles of public higher education law with the objective of precluding administrative decisions obviously contrary to the existing body of law. The handbook is not intended as a substitute for expert legal counsel. Citation of cases should be limited to landmark cases as much as possible; where appropriate, however, citation of cases directly involving or pertaining to the public colleges of the District of Columbia should be reviewed. An outline of the required handbook contents is attached. It is expected that topics in the outline can be covered in a handbook of approximately _____ pages. Readability should be a major concern in developing the handbook wording.

DELIVERABLE ITEMS UNDER PROPOSED CONTRACT:

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>SCHEDULE</u>
1	Progress Report	2	30 days after date of award
2	Progress Report	2	60 days after date of award
3	Draft Handbook	2	90 days after date of award
4	Final Handbook	10 copies & reproduces	20 days after review and comment on item 3

EVALUATION CRITERIA:

Page Bl-2

1. Understanding of the work to be done
2. Proposed information sources
3. Qualifications of Personnel Assigned to the Study and Handbooks Tasks

INSTRUCTIONS

PAGE IDENTIFICATION: All pages in the technical proposal must be identified with the offeror's name, RFP number, and date; subsequent revisions must be similarly identified and coded to show the Revision Number and date.

CONTENTS OF PROPOSAL: The technical proposal shall be a separate volume consisting of the following:

1. Table of Contents
2. Introduction: No specific Instructions
3. Methods: State in detail the approach or methodology you plan to use to accomplish the requirements set forth in the Statement of Work and Deliverable Items as indicated above.
4. Information Sources: List and discuss, in a general manner, the various information sources you plan to utilize
5. Key Personnel: List all key personnel to be assigned to the study and handbook effort and their specific areas of responsibility.
6. Other: Submit any additional information that you feel will lead to a clearer understanding of your approach to the contract requirements.

7. Summarize any exceptions or deviations taken with regard to the requirements set forth in this Section, if any.

ATTACHMENT

Page Bl-4

OUTLINE FOR A STUDY AND HANDBOOK
OF LEGAL ASPECTS OF PUBLIC HIGHER
EDUCATION IN THE NATION'S CAPITAL

ROLE OF PUBLIC HIGHER EDUCATION -- AN OVERVIEW

NATIONAL OBJECTIVES

PUBLIC HIGHER EDUCATION IN THE DISTRICT OF COLUMBIA

PURPOSE OF THE HANDBOOKINFLUENCE OF MAJOR LEGAL DECISIONS, PAST AND PRESENT,
ON HIGHER EDUCATION

NEED FOR A HANDBOOK IN THE DISTRICT OF COLUMBIA

STRUCTURE OF PUBLIC HIGHER EDUCATION IN THE DISTRICT OF COLUMBIA

SOURCES OF AUTHORITY

DISTRICT OF COLUMBIA PUBLIC HIGHER EDUCATION ACT
OF 1966 (PL 89-791)LAND GRANT ACTS (SMITH-LEVER ACT, BANKHEAD-JONES ACT,
1860 LAND GRANT ACT, 1890 LAND GRANT ACT, ETC.)

OTHERS AS APPROPRIATE

GOVERNANCE AND OVERSIGHT

BOARD OF HIGHER EDUCATION

BOARD OF VOCATIONAL EDUCATION

OFFICE OF THE MAYOR

CITY COUNCIL

FEDERAL CONGRESS

FINANCE AND ADMINISTRATION OF PUBLIC HIGHER EDUCATION

LEGAL BASIS FOR FUNDING

GENERAL OPERATING PROGRAMS .

CAPITAL OUTLAY PROGRAMS

LAND GRANT PROGRAMS

MISCELLANEOUS GRANTS AND CONTRACTS

THE BUDGETARY CYCLE

LIMITATIONS IN FISCAL AND PROGRAM MANAGEMENT

THE ADMINISTRATIVE PROCEDURES ACT

THE ANTI-DEFICIENCY ACT

BUDGETARY AUTHORITY.

FISCAL PROCEDURES

BOND AUTHORITY

FEDERAL AND DISTRICT ADMINISTRATIVE AGENCIES

TAXATION.

CONSTITUTIONAL RIGHTS OF STUDENTS

ADMISSION PRACTICES

STUDENT-UNIVERSITY RELATIONSHIPS .

PRIVELEGE

CONTRACT

FIDUCIARY

CONSTITUTIONAL

FIRST AMENDMENT RIGHTS

FREEDOM OF THE PRESS

FREEDOM OF SPEECH

FREEDOM OF ASSEMBLY

FREEDOM OF RELIGION

RIGHT TO PRIVACY

RECORDS AND PAPERS

PERSON

PERSONAL APPEARANCE

GRADES

REVOCATION AND WITHDRAWAL OF DEGREES

VIOLATION OF CRIMINAL LAW OFF CAMPUS

DAMAGE OR DESTRUCTION OF PROPERTY

WEAPONS ON SCHOOL GROUNDS

SEARCH AND SEIZURE

MASS HEARINGS

IMMEDIATE SUSPENSION

EXPULSION

PROCEDURAL DUE PROCESS

NOTICE

HEARING

RIGHT TO COUNSEL

INSPECTION OF EVIDENCE

TRIER OF FACT--IMPARTIALITY OF THE HEARING

WITNESS--CROSS-EXAMINATION, CONFRONTATION, AND
COMPULSORY PRODUCTION

SELF-INCRIMINATION

SUFFICIENCY OF EVIDENCE

TRANSCRIPT OF HEARING.

APPEAL

STUDENT RECORDS

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF
1974 (PL 93-380)

1871 CIVIL RIGHTS ACT

STUDENT FEES AND TUITION

BASIS FOR FEES AND TUITION.

USES OF STUDENT FEES.

DISPOSITION AND USES OF INCIDENTAL FEES AND TUITION.

RESIDENCY

FOREIGN STUDENTS

FACULTY AND OTHER PERSONNEL

ACADEMIC FREEDOM

LOYALTY OATHS

POLITICAL ACTIVITY

CLASSROOM ACTIVITIES

TENURE

CIVIL SERVICE APPOINTMENTS

EMPLOYMENT CONTRACTS

CONTRACT RENEWAL

NON-RENEWAL OF CONTRACT

PRIVILEGE AGAINST SELF-INCRIMINATION

DISMISSAL OF CONTRACT EMPLOYEE

DISMISSAL OF TENURED FACULTY

DISMISSAL OF NON-TENURED FACULTY

DISMISSAL OF CIVIL SERVICE EMPLOYEE

LABOR-MANAGEMENT RELATIONS IN PUBLIC HIGHER EDUCATION.

NATIONAL TRENDS

STATUS IN THE DISTRICT OF COLUMBIA

RETIREMENTS

TORT LIABILITY OF PUBLIC HIGHER EDUCATION PERSONNEL

GROUNDS FOR TORT ACTION

ELEMENTS OF NEGLIGENCE

DEFENSES FOR NEGLIGENCE

DEFAMATION

NUISANCE

LIABILITY OF COLLEGE ADMINISTRATORS AND TRUSTEES

IMMUNITY

PERSONAL LIABILITY UNDER THE 1871 CIVIL RIGHTS ACT

OFFICER AND TRUSTEE LIABILITY INSURANCE

PUBLIC POLICY AND LAW: NON-DISCRIMINATION IN HIGHER EDUCATION

TITLE VI AND VII, CIVIL RIGHTS ACT OF 1964 (PL 88-352)

TITLE IX, EDUCATION AMENDMENTS OF 1972 (PL 92-318)

TITLE 34, 1974 HUMAN RIGHTS ACT OF THE DISTRICT OF COLUMBIA

OTHERS AS APPROPRIATE

ORGANIZATION AND FUNCTION OF THE JUDICIAL SYSTEM IN THE
DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA COURT REORGANIZATION ACT OF 19

JUVENILE JUSTICE SYSTEM

CRIMINAL JUSTICE SYSTEM

CIVIL JUSTICE SYSTEM

OTHER RELATED LEGAL MATTERS

DESEGREGATION

ACCREDITATION

AFFIRMATIVE ACTION PROGRAMS IN THE DISTRICT OF COLUMBIA

IMPENDING REORGANIZATION OF PUBLIC HIGHER EDUCATION
IN THE DISTRICT OF COLUMBIA

PART B

Page B2-1

SECTION - 2

COST PROPOSAL INSTRUCTIONSGENERAL

Page Identification: All pages in the cost proposal must be identified with the offeror's name, RFP number, and date; subsequent revisions must be similarly identified and coded to show the Revision Number and date.

Rounding Off: Final monetary extensions may be expressed in the closest whole dollar amount, with cents omitted.

Evaluation Criteria: Proposals will be evaluated to establish for each proposal:

- (a) the validity of the costs as proposed
- (b) the probable cost to the (Agency) of accepting each proposal, including any required modifications to an offeror's approach or work plan for accomplishing the work proposed

The cost proposal will also be used as an aid to determine the offeror's understanding of the requirements of the RFP as well as to assess the validity of the offeror's approach to performing the work in accordance with the requirements.

INSTRUCTIONS

The cost proposal shall be a separate volume consisting of the following:

1. Table of contents

2. Introduction: As a minimum, give a brief description of the effort being performed by the offeror and any subcontractors or consultants.

3. Cost and Price Summary: The attached cost and price summary form shall be fully filled in and executed.

4. Backup sheets for each element of cost indicated on the cost and price summary form and consisting of the following as a minimum:

- a. Manpower loading charts providing major categories of labor and number of labor hours by month.
- b. Provide the basis for all labor rates and all indirect (Overhead and G&A) rates.
- c. Schedule of material, if any.
- d. Schedule of computer costs, if any.
- e. Schedule of local and out-of-town travel. If any out-of-town travel is involved, provide destination, number of days, reason for travel, costed elements of travel and dollar total for each trip.
- f. Schedule of any other direct costs.
- g. For each subcontract in excess of \$500.00 which involves study and analysis work directly related to this contract, provide a brief description of work to be performed, type of subcontract awarded,

whether award was based on competition, and the organizational relationship, if any, of the sub-contractor to the offeror.

5. Summarize any exceptions or deviations taken with regard to the requirements set forth in this Section, if any.

COST AND PRICE SUMMARY

	<u>HOURS</u>	<u>RATE</u>	<u>COST</u>	<u>TOTAL</u>
DIRECT LABOR: (by labor categories)		\$	\$	
	_____	_____	_____	
	_____	_____	_____	_____
OVERHEAD		<u>RATE</u>	<u>BASE</u>	<u>COST</u>
		\$	\$	
	_____	_____	_____	
TOTAL OVERHEAD	_____	_____	_____	_____
MATERIAL:				
SUBCONTRACTS				
TRAVEL				
OTHER DIRECT COSTS				
TOTAL OTHER DIRECT COSTS				_____
	<u>RATE</u>	<u>BASE</u>	<u>AMOUNT</u>	
		\$	\$	
TOTAL G&A	_____	_____	_____	_____
PROFIT/FEE BEARINGS COSTS				_____
PROFIT/FEE				_____
TOTAL PRICE				_____

AUTHORIZED COMPANY REPRESENTATIVE _____

DATE _____

PART B.

Page B3-1

SECTION - 3

BUSINESS MANAGEMENT PROPOSAL INSTRUCTIONSGENERAL

Page Identification: All pages in the business management proposal must be identified with the offeror's name, RFP number, and date; subsequent revisions must be similarly identified and coded to show the Revision Number and date.

Evaluation Criteria: Criteria to be applied in the evaluation are as follows:

1. Financial Stability
2. Past Performance
3. Management Plan
4. Qualifications of Key personnel

The information requested in this Part and Section of the RFP together with information that Contracting Officer may acquire from the records of _____ (Agency) _____, other Government sources and commercially available data, will provide the the total information for the Business Management evaluation.

Content: The Business Management Proposal shall contain all information of joint interest to the technical and cost evaluation personnel. It will not include any cost or pricing data relative to this procurement.

INSTRUCTIONS

The business management proposal shall be a separate volume consisting of the following:

1. Table of contents
2. Introduction: The offeror will define briefly the entire scope of his proposal.
3. Financial Stability: Information furnished should include, but not be limited to the following:
 - a. Credit References.
 - b. Established lines of credit, if any.
 - c. Character references (two), if a single proprietor.
 - d. A general statement regarding the firm financial arrangements available to carry out this contract effort.
4. Past Performance: List all applicable experience, in this field of effort, within the past three (3) years.
5. Management Plan: Set forth here your plan for managing and controlling the contract effort. Summary statements and an overview of your organization structure is appropriate. Include also a brief narrative history of your organization and any other events or facts that can lead to a clear understanding of "how you got to where you are."
6. Personnel: Submit names and resumes of contract responsibilities, education, and qualifying experience for key personnel to be assigned to this contract.

7. Subcontracting Summary: Present plans for subcontracting, if any, in this contract. Exclude references to dollar amounts.

8. Summarize any exceptions or deviations taken with regard to the requirements set forth in this Section, if any.

APPENDIX G-3

HUDSON LEFTWICH & DAVENPORT

JAMES M. CHRISTIAN
CHESTER C. DAVENPORT
WILLIAM J. EARL
JAMES L. HUDSON
RONALD C. JESSAMY
WILLIE L. LEFTWICH

1101 FIFTEENTH STREET, N.W. - SUITE 806 - WASHINGTON, D. C. 20005
202-452-1555
CABLE ADDRESS: HULEON, WASH., D.C.

July 17, 1975

MEMORANDUM

To: John Green

From: Willie L. Leftwich

The aims of the RFP could probably be better set forth. As currently drafted there is some question as to exactly what is to be provided. The services desired do not, however, lend themselves to simple (performance and/or design) categorization. Rather the services may require for further assurance, a more complex type of contracting. For example: two step, negotiated services, fixed price with incentives (based on number of pages) and cost plus fixed fee (with incentives in calculating fee).

The RFP is by definition difficult, however, clearly worthwhile and necessary. The effort is really in the nature of almost a personal services contract with the first writing to be used as the next efforts raw data.

As prepared, the RFP reflects an expenditure of resources (time and effort) to reach its present level.

Having some limited familiarity with the local school system, the type of model RFP should, in all actuality, be developed and funded. The value of the handbook is almost beyond belief as to students, teachers, administrators and the general public.

APPENDIX G-4



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
GODDARD SPACE FLIGHT CENTER
GREENBELT, MARYLAND 20771

REPLY TO
ATTN OF:

July 16, 1975

John E. Green
7520 Riverdale Road
New Carrollton, Maryland 20784

Subject: Adequacy of Model RFP

Reference: Your Letter of July 14, 1975

I have reviewed the subject RFP and offer the following comments:

a. Feasibility of Performance Required

Although I feel the effort required by the RFP is feasible, a lawyer is the best source for a definitive opinion. The crux of "feasibility" is whether the body of law and associated cases can be sufficiently generalized for the purpose of the handbook. Has this body of law reached a state where general principles can be derived and presented in layman terms?

b. Realism of Expected Results

Assuming the answer to (a) above is "yes," I think the expected result can be obtained. In this case, as in most studies, it is usually not possible to define the end result sufficiently so that acceptance of the report (handbook) can be made on the basis of objective criteria. Therefore, adequacy of the handbook will depend upon the quality of personnel assigned to the task, the "good faith" of the firm, and the amount of manpower (money) available for the job. I think it would be appropriate to indicate the expected "level of effort" or the available amount of money in the RFP to allow the offerors to adequately scope the job.

c. Overall Contents of RFP

I consider the overall contents of the RFP adequate for submission to a procuring activity.

Subject: Adequacy of Model RFP

2

d. Probability of Model to Produce a Meaningful Proposal

Excellent.

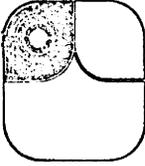
e. Recommended Improvements

Indicate an expected "level of effort" in the RFP.

Good luck in your education endeavor. I will be looking forward to receiving a copy of your completed report.

Kent Cockerham
Procurement Manager

APPENDIX G-5



THE FEDERAL CITY COLLEGE
FINANCIAL MANAGEMENT
1420 new york avenue, n.w., washington, d.c. 20005
(202) 727-2158
July 17, 1975

Mr. John E. Green
7520 Riverdale Road
New Carrollton, Maryland 20784

Dear Mr. Green,

I would first like to thank you for affording me the opportunity to serve as a member of the Expert Panel in Procurement and to commend you for undertaking such a worthwhile and long overdue project for your doctoral dissertation.

I have reviewed your model RFP for "A Study and Handbook of Legal Aspects of Public Higher Education in the District of Columbia" and found its content clear, concise and with the touch of professionalism that would precipitate a positive response from those bidders who may wish to undertake such a project. Your RFP is realistic enough to expect a study and handbook which will be meaningful to both this institution and other public institutions of higher education in this city.

However, I would like to recommend that you include in the Business Management portion of your RFP a paragraph on the responsibility of the proposed contractor to comply with the Equal Opportunity Obligations in contracts pursuant to the Government of the District of Columbia Commissioner's Order 73-51, dated February 28, 1973. Also, in Part A, the requirement that each prospective bidder submit six (6) copies of the technical, cost and business proposal may tend to be costly to a small consultant firm on low overhead. I recommend that only three (3) copies be required.

With your permission I would like to use a portion of your RFP to improve a few voids in my contracting section.

Again, I would like to applaud your endeavor and wish you much luck on your doctoral dissertation. If further assistance is needed, please feel free to contact me.

Yours truly,

James H. Jackson
Director, Procurement Office
Federal City College

APPENDIX G-6



TRANSCENDENTAL CORPORATION

1010 VERMONT AVENUE, N.W. - SUITE 1010
WASHINGTON, D.C. 20005

(202) 628-1470

July 17, 1975

Mr. John E. Green
7520 Riverdale Road
New Carrollton, Maryland 20784

Dear Mr. Green:

I have reviewed your draft "Model Request for Proposal". I am convinced that within the criteria of feasibility of performance, realism of expected results, overall contents, and probability of the model in producing a meaningful proposal your draft will handsomely serve as a model for the actual government procurement of a study and handbook of legal aspects of public higher education in the District of Columbia.

I look forward to reading your dissertation.

Sincerely yours,

James J. Manion, Ph.D.
Senior Staff Associate

JJM:llc

**The two page vita has been
removed from the scanned
document. Page 1 of 2**

**The two page vita has been
removed from the scanned
document. Page 2 of 2**

A STUDY OF LEGAL INFORMATION NEEDS
OF PUBLIC HIGHER EDUCATION ADMINISTRATORS
IN THE DISTRICT OF COLUMBIA

by

John Edward Milton Green, Jr.

(ABSTRACT)

This study was concerned with the assessment and analysis of legal information needs of the major administrators in the public higher education system of the District of Columbia. The study further sought to provide a model Request for Proposal (RFP) with a performance specification suitable for inclusion in a public contract which ultimately would result in a study and handbook of the identified legal aspects.

The administrators' needs and desires for legal information were assessed through a questionnaire survey. The questionnaire was divided into three sections emphasizing:

- a. What information was generally known.
- b. What additional information was needed.
- c. What information was desired.

Results of the survey indicated that there was a generally low awareness of the more popular aspects of college and university law. However, the administrators

appeared to be generally aware of the specific legal aspects pertaining to the instruction or classroom activity. Most of the administrators felt that they were not equipped with sufficient legal information to make decisions on matters with legal implication that could withstand a challenge in court. Constitutional rights, employment contracting, fiscal administration, and policy conflicts were viewed as the most frequent problem areas, while accreditation and tenure problems were viewed as the least frequent. The survey also resulted in a priority listing of legal topics for which additional information was desired.

The survey results were used as a basis for developing a draft outline of legal information topics and sub-topics for inclusion in a study and handbook. A panel of experts in higher education administration and law was effective in producing a final qualified outline. Using the final topic outline, a draft model RFP, containing a performance specification, was designed. A second panel, comprised of experts in contracting, reviewed, modified and validated the model RFP as being usable to actually obtain the required services through a public contract, to conduct a study and produce a handbook with emphasis upon the District of Columbia public higher education system.

It was concluded that:

a. Administrators of the public colleges in the District of Columbia do want and need additional legal information.

b. Administrators of the public colleges in the District of Columbia can specifically identify their needs and desires for legal information.

c. Expressed or identified legal information needs can be converted into a public contract performance specification.

Key recommendations for further study included the development of objective evaluation criteria applicable to performance contracts and the actualization of the study results by the appropriate offices of the District of Columbia Government.