

CHAPTER ONE

Introduction

The student-institution relationship has evolved throughout the history of American colleges and universities. Inherent in the evolution of the student-institution relationship is the development of the administration of student discipline.

The American colonies established colleges to ensure that future civic and religious leaders would be educated (Dannells, 1997). Students in the Colonial colleges were boys the age of today's high school students. To control young boys, college administrators used an authoritarian form of governance and regulated every moment of each day. Administrators were responsible for shaping moral character and social manners. All conduct was dictated by the list of rules and closely monitored by faculty. Misconduct was addressed and punishments ranged from minor fatherly counseling and loss of privileges to more serious discipline such as expulsion from the college. Colonial college administrators were given great authority to act in place of the student's parents because most parents were great distances away and travel was difficult.

The Colonial college system of discipline was used to regulate student behavior even as America grew and the colonies evolved into the federation of states (Dannells, 1997). However, the strict codes of conduct and the associated punishments became less strict and less severe as American society became more democratic and the purpose and culture of colleges evolved. The application of harsh punishment of students in the south lessened because punishment such as flogging and public degradation was then reserved for slaves. As America moved through the late 18th and early 19th centuries, college disciplinary actions became milder and minor misconduct was addressed through counseling. During this time, deans of men and deans of

women were appointed from the faculty to address disciplinary issues (American Council on Education, 1997).

After the Civil War and the beginning of the 19th century, colleges reevaluated expectations and treatment of students. Administrators moved toward viewing students as adults capable of making their own decisions concerning education and conduct (Dannells, 1997). Administrators of campus discipline, typically the deans of students, began viewing students in a holistic manner and became increasingly concerned with the development of the entire student. Student discipline was part of a holistic approach with a goal of student self-discipline.

Following World War II, students were afforded greater access to colleges and universities (Dannells, 1997). Older, worldlier students were less willing to accept the traditional methods of discipline found in student codes of conduct. The student protests in the 1960s and 1970s, along with access to college for older students, signaled the demise of the traditional view of student discipline. Increased tolerance, individual rights for all, and a lowering of the age of majority all contributed to a change in expectations of students and universities' methods of discipline. *In loco parentis* was beginning to be abandoned as a time of increasing litigation concerning student discipline arose. The student-institution relationship changed to a more contractual, consumerist relationship, which included more student rights.

Litigation concerning student discipline began in the 1960s and continued through the 1990s [*Board of Curators of University of Missouri v. Harowitz* 435 U.S. 78 (1978), *Dixon v. Alabama State Board of Education* 386 U.S. 930 (1961), *Esteban v. Central Missouri State College* 415 F.2d 1077 (8th Cir., 1969), *Hardison v. Florida A&M University* 706 So.2d 111 (Fla. App., 1998), *Jenkins v. Louisiana State Board of Education* 506 F.2d 992 (5th Cir., 1975)]. Litigation in the 1960s centered on a student's constitutional rights (Dannells, 1997). To ensure

compliance with constitutional rights, institutions adopted legalistic discipline procedures that mirrored the criminal court system. As a result, a struggle arose between the legalistic discipline of the past and the student development position taken by most contemporary college administrators (Smith, 1994).

In the context of student discipline, the current institution-student relationship is most commonly viewed as being either contractual for private institutions or constitutional for public institutions (Kaplin & Lee, 1995). A contractual institution-student relationship is based upon contract theory where a contract is created between the institution and its students, and the terms of the agreement are articulated in college publications such as the college catalogues (Dannells, 1997; Kaplin & Lee, 1995). Private institutions may also afford students constitutional rights.

A constitutional institution-student relationship is based upon constitutional theory where legal limitations are placed on the institution's power to create rules and regulations affecting student liberties. The First and Fourteenth Amendments to the United States Constitution, among others, define an institution's legal limits. However, institutions may create contractual rules and regulations within those limits or, if the institution so chooses, may extend student rights beyond those provided by the constitution.

Through either a contractual relationship or a constitutional relationship, institutions create clear, reasonable rules and regulations, in the form of a code of conduct, to maintain order on campus; create a positive, educational community; and to teach student self-responsibility (*Soglin v. Kauffman, 1969*). Upon entering the institution, students agree to abide by the institution's code of conduct. To ensure that all students and associated stakeholders involved are aware of the rules and regulations, institutions publish the code of conduct usually in a student handbook, which also obligates an institution to adhere to the stated procedures while

disciplining students who violate the established regulations. These handbooks create a contractual relationship between the institution and its students (*Mittra v. University of Medicine, 1998*).

A code of conduct is written direction for college administrators and students on what constitutes acceptable behavior based on the values and mission of the institution (Dannells, 1997). Conduct codes usually contain the codes themselves, procedures followed when investigating possible misconduct, and potential sanctions if a violation occurred.

Student codes of conduct, found in campus publications, are part of the campus judicial discipline process. During the 1960s, institutions created legalistic judicial processes in response to student rights, which mirrored courts of law by using legalistic language and procedures (Dannells, 1997). Some suggest this mirroring of the court system removed educational intentions and created an adversarial discipline relationship (Gehring, 2001). The courts have been extremely limited in interfering with college and university discipline processes because they have given the institutions the leeway to adjudicate violations of institutional rules. Therefore, when legalistic language is not eliminated from campus judicial discipline processes, confusion arises and there is misunderstanding by students, attorneys and others over the differences between college discipline processes and courts of law.

Due to the confusion and misunderstanding, authorities on judicial processes have recommended that legalistic language be completely removed from campus codes (Stoner & Cerminara, 1990; Gehring, 2001; Pavela, 2000). Stoner (2000) suggested that this removal of legalistic language occur during an institutional review process of judicial discipline procedures. This review is also intended to promote behavioral standards supportive of a positive living and

learning environment for all students and to emphasize or highlight the educational nature of the discipline process.

Research on campus codes of conduct is limited to a very few studies. No research has been conducted on the removal of legalistic language in student conduct codes nor an empirical study of the extent to which conduct codes use legalistic language. This study was conducted to determine the extent to which student affairs professionals have taken heed of the advice from Stoner and Cerminara (1990), Gehring (2001) and Pavela (1979) to remove legalistic language from student conduct codes.

Purpose

The purpose of this study was to determine the extent to which college and university administrators have adopted Stoner and Cerminara, Gehring, and Pavela's suggestion to remove legalistic language from their student conduct codes.

Research Questions

I used the following research questions to guide the present study:

1. What type of language is being used in college and university student conduct codes?
2. Does the type of language vary by institutional type (public v. private)?
3. Does the type of language vary by institution size (small v. large)?

Significance of the Study

This study is significant for professional practice. The literature on campus judicial procedures includes a segment detailing the need for the removal of legal terminology within policies and procedures (Dannells, 1997; Footer, 1996; Gehring, 2001; Pavela, 1979; Stoner & Cerminara, 1990; Stoner, 2000; Travelstead, 1987). This study will show the extent to which student affairs practitioners in higher education have incorporated this best practice in their

student conduct codes. Administrators may find this study helpful in assessing and revising their institution's current campus student conduct codes. The process of assessment of current codes and procedures including revisions, if needed, can benefit students by reducing confusion between judicial discipline process and courts of law while emphasizing educational goals in student discipline.

In addition, this study may be helpful to administrators and institutional legal counsel. By clearly defining the campus judicial discipline process, through student conduct codes, as a process of adjudicating inappropriate behavior and not of criminal violations, administrators can remove any ambiguities of purpose and confusion about their intentions.

Limitations

First, this study qualitatively analyzed the data. Qualitative research relies on the interpretation of the researcher and may contain researcher bias. Sample sizes in qualitative research are necessarily small and not representative of the entire population of higher education institutions; therefore, the results of this study cannot be generalized.

Second, this study used existing online data. A limitation of using online data is accessibility. Online data are easily altered from the format used by the researcher. Further the data may be accessible to the researcher during the data collection period then removed from the Internet at a later date restricting or making replication of the study impossible.

Third, the study was designed to examine conduct codes available online. Limiting the sample to institutions with online conduct codes may have skewed the results.

Even with these limitations, a study of student conduct code content is important because student conduct codes have not been studied at length in previous research.

Definitions

The following definitions were developed and used in this research:

Carnegie Classifications are the definitions of institution type as defined by the Carnegie Foundation.

Large institutions are 4-year, not for profit institutions with more than 15,000 full-time students.

Legal terminology is the language used within the court systems by judges, attorneys and those connected with the legal profession.

Public institutions are 4-year, not for profit, state supported institutions.

Private institutions are 4-year, not for profit, privately funded institutions.

Small institutions are 4-year, not for profit institutions with less than 5,000 full-time students.

Student Conduct Codes are standards of behavior as well as policies and procedures followed by college and university administrators and/or their designees when addressing student misconduct. Student misconduct in student conduct codes can address social as well as academic misconduct.

Student Handbooks are publications (printed booklets, web pages, and/or CD-ROMS) developed by higher education institutions as contracts between the institution and its students concerning codes of conduct, campus policies and regulations, and are sources of general campus information.

Organization of the Study

This study is organized around five chapters. Chapter Two contains a review of the relevant scholarly literature. Chapter Three describes the methods used in the study, including

procedures for collecting and analyzing the data. Chapter Four describes the results of the study. Chapter Five discusses the results and their implications for future practice and research.

CHAPTER TWO

Literature Review

The present study examined college and university student conduct codes. This chapter reviews the scholarly literature to describe and report research conducted on student conduct codes in colleges and universities.

Judicial Affairs in Transition: From *In Loco Parentis* to Student Conduct Codes

In loco parentis, the traditional student disciplinary function of the early Colonial colleges where administrators acted in place of a student's parents was common practice among college and university administrators until the 1960s (Dannells, 1997). The 1960s and 1970s were a time of increasing litigation as students and their parents began challenging administrators by initiating fundamental changes in administrator roles and the practices involved in student discipline. *Dixon v. Alabama State Board of Education* (1961) was the landmark case that altered the *in loco parentis* approach of college and university administrators (Steele, Johnson, & Rickard, 1984).

Later courts cases addressing the practice of judicial affairs, which ultimately aided in the change from an *in loco parentis* approach to a due process focus, include: *Barker v. Hardway* (1968), which addressed a student's right to counsel; *Evers v. Birdsong* (1968), which addressed freedom of speech and assembly; *Grossner v. Trustees of Columbia University in City of New York* (1968), which addressed off-campus judicial proceedings; *Scott v. Alabama State Board of Education* (1969), which addressed the specificity of rules; and court clarification of the application of the First, Fourth, Fifth, and Sixth Amendments to the Constitution (Young, 1971). With the increase in legal resolution of judicial affairs issues, the administration of campus

discipline became more formal and legalistic rather than paternalistic and concerned for the individual (Carlson & Hubbell, 1971).

Several research studies were conducted to determine the college administrator's role and how the role has changed due to the litigation of student discipline. Dutton, Smith and Zarle (1969) conducted a major survey in which they concluded that alternative models were necessary for administrator roles, specifically the dean of students, in adjudicating student misconduct. Two research studies, Ostroth, Armstrong and Campbell (1978) and Steele, Johnson and Rickard (1984), addressed how the litigation of the 1960s and 1970s changed the judicial affairs function in college and universities and how administrators altered practices to reflect legal requirements.

Ostroth et al. (1978) found that the greatest change in judicial systems in the early 1970s occurred in the attention given to due process and standardization. Further, legal factors (court decisions and legal majority of 18 years old), changing management practices, and student pressure appeared to be the strongest influences for judicial system change.

Steele et al. (1984) found that the litigation and scrutiny of judicial affairs did not lead to the establishment of judicial affairs offices. Rather, judicial matters were conducted by deans of students, assistant deans or residential life officers. Additionally, organizational structures in student affairs departments were not altered due to the increased emphasis on judicial affairs. A majority of the respondents in this study believed that no change in judicial programs was needed to meet the needs of each individual institution. Moreover, a theme of having an overly legalistic judicial system was identified among those institutions that indicated a need for moderate or substantial change in judicial programs.

The result of an overly legalistic judicial system was a pervasive proceduralism on college campus, which diminished personal responsibility for actions and created difficulties for

administrators to act swiftly to protect the campus community (Pavela, 1979). Pavela (1979) proposed a ‘Code of Student Conduct’ to address this growing proceduralism and to serve as a model for other administrators responsible for student conduct who wanted to move from legally mandated proceduralism to student disciplinary regulations. Like Pavela, Stoner and Cerminara (1990) offered a model code of student conduct to aid judicial affairs administrators in removing legalistic language.

Student Conduct Codes

The Council for the Advancement of Standards in Higher Education (CAS) standards and guidelines for judicial programs and services require judicial programs establish, within the context of its mission and purpose, a written statement (a conduct code) describing the authority, philosophy, jurisdiction, policies, and procedures of the campus judicial programs that will be disseminated to all members of the campus community (Miller, 2001). A student conduct code should reflect an institution’s commitment to equity, fairness, honesty, trustworthiness, and responsibility (Association for Student Judicial Affairs, 2003).

College and university administrators use student conduct codes as a way to inform the campus community of behavioral standards, methods used to enforce the standards, processes for adjudication of violations, and the institution’s response to inappropriate behavior (Dannells, 1997). Conduct codes are a means to ensure the campus community remains focused on the mission and goals of the institution by educating students on community standards (Footer, 1996; Stoner, 2000). By establishing and maintaining a functional code of conduct, institutions are able to discipline and remove students, if necessary, from the institution (Wilson, 1996).

Components of Student Conduct Codes

CAS standards and guidelines state that a student conduct code should address (a) if academic or non-academic misconduct are within the judicial office's jurisdiction, (b) what policies and regulations the judicial office enforces, (c) possible sanctions, (d) a clear description of the relationship between the judicial office and on- or off-campus law enforcement agencies including guidelines when external law enforcement authorities are involved in, (e) and information on how, if any, criminal court decisions will affect the outcome of corresponding campus judicial proceedings (Miller, 2001).

Student conduct codes include several components: an introductory statement about purpose, definition of terms, a list of conduct regulations, disciplinary actions, and disciplinary procedures (Travelstead, 1987; Stoner & Cerminara, 1990; Pavela, 2000). Although conduct codes and the components within them may vary by institution, several overarching concepts should be included. First, conduct codes are not criminal in process (Stoner & Cerminara, 1990; Stoner, 2000; Gehring, 2001). Specifically, conduct codes should not be as exact as criminal statutes and language implying criminal standards should not be included (Stoner & Cerminara, 1990). Second, conduct codes should include procedural due process rights as outlined by the case law on this topic (Wilson, 1996; Stoner, 2000; Gehring, 2001). Finally, a code of conduct should include a list of proscribed behaviors students should avoid (Travelstead, 1987; Stoner & Cerminara, 1990; Footer, 1996).

Review of Student Conduct Codes

Institutions with student conduct codes have a powerful tool for encouraging a successful living and learning environment on campus for all students (Stoner, 2000). However, regular review of the codes of conduct can ensure that the processes continually support the institution

and its mission. CAS standards and guidelines for judicial programs call for ongoing evaluation of office publications, which includes student conduct codes (Miller, 2001). Regular review of conduct codes can be used to update outdated or vague language, revise overly legalistic components, and remove inflexibility (Footer, 1996). A comprehensive review of a conduct code addresses all components of the processes including scope and jurisdiction, the rules and sanctions, decision making bodies, and the role of individuals in the disciplinary process (Stoner, 2000).

Three well cited models of student discipline (Stoner & Cerminara, 1990; Hoekema, 1994; and Pavela, 2000) could be used to assist administrators in the review of student conduct codes. By reviewing its conduct codes, an institution can provide a disciplinary system that aids in student development and that meets all court requirements for due process without excessive formalism and legality (Gehring, 2001).

Research on Student Conduct Codes

Through an exhaustive literature review on student conduct codes in the major student affairs journals, I found six studies on student conduct codes published between 1990 and 2003. The date range of 1990 to 2003 was selected for this literature review because the present study was based from Stoner and Cerminara's (1990) Model Code of Student Conduct. In Stoner and Cerminara's publication, they addressed and stressed the removal of legalistic tone and terminology in student conduct codes.

In 1997, Dannells stated that there were only three published research studies on student disciplinary processes: Dannells (1990), Lancaster, Cooper and Harman (1993), Hoekema (1994). Three studies have been published since Dannells: Palmer, Penney, Gehring and Neiger (1997 and 1998) and Fitch and Murry (2001).

Dannells

Dannells published a 10-year longitudinal study in 1990, which identified changes in disciplinary policies and procedures from 1978 to 1988 by using the same survey and the same national sample. The data for the first survey were collected during the 1977-1978 academic year and the data for the second survey were collected during the 1987-1988 academic year.

In the 1978 study, 400 baccalaureate-granting colleges and universities were randomly selected as the sample population and then stratified by region of the country to ensure no statistically different population proportions. Of the 400 institutions in the sample, 227 returned usable surveys for a 57% response rate. For the second survey, a nearly identical sample was identified. Of the original institutions in the 1977-1978 sample, 34 were no longer in operation. Similar institutions based on size, type of control, and region of the country were substituted. Again, 400 surveys were mailed and 293 usable surveys were returned for a response rate of 72%. To analyze the data, chi-square analyses were conducted on categorical data and t-tests were conducted on the nominal data. Overall, 42 significant differences were found on 88 categorical items.

Dannells found significantly more institutions in 1988 reported concern for all student behavior regardless of location (on- or off-campus) and type of behavior (social or academic) than was reported in 1978. He concluded that the scope of jurisdiction broadened so that nearly half of the surveyed institutions consider all student behavior in their jurisdiction.

Universities were significantly more likely to publish or make available rules and procedures to inform students of appropriate and inappropriate behavior. However, students were less likely to have input or be involved in the formulation of conduct rules.

In the survey, respondents were asked to consider and respond to the availability of 18 procedural due process safeguards. A significant increase in the percentage of institutions giving oral notices of hearing, allowing the student counsel (not an attorney), and permitting a jury on request was found. Yet significant decreases were found in the percentage of institutions that allowed a student to confront and cross-examine witnesses and permitted the hearing to be held in public upon the student's request.

The availability of disciplinary sanction options increased significantly over the 10 years. Ten types of sanctions were studied to determine availability of the sanctioning option and in all but oral warnings and corporal punishment, the sanctions became more available to those administering the discipline system.

Dannells (1990) offers, in his discussion, a highlight of the important results of this sole longitudinal study on disciplinary affairs. There was an area of stability in the availability of procedural due process and the administration of disciplinary records mainly due to the passing of federal law and court decisions. The scope of university authority broadened and administrators were increasingly interested in all student behavior on and off campus. This is seen through the increase in institutional response to student behavior as well as the increase of sanctioning options. With the increase in jurisdiction and student behaviors addressed, the role of the chief student affairs officer became less of a director of the disciplinary system but rather a final appeal authority.

Lancaster, Cooper & Harman

The 1993 study, published by Lancaster, Cooper and Harman, sought to give an accurate depiction of the organizational and administrative practices concerning student conduct codes. The study incorporated existing research contained in a survey designed for this study. The

population for the study included members of the Association for Student Judicial Affairs (ASJA) in the spring of 1990. Five hundred twenty-three surveys were sent via postal mail and 327 usable surveys were returned for a response rate of 63%.

Five comparison groups were used for purposes of data analysis: public and private institutions; small (under 5,000), medium (5,000 – 14,999), and large (15,000+) enrollments; residential and commuter populations; university and four-year institutions; and campuses with and without Greek-letter organizations. The five groups were compared by response to the role of hearing officers, the disciplinary proceeding practices used, and the types of assessment and evaluation processes used. Chi-square analyses were used to analyze differences among the groups.

The results of the study show that almost 97% of respondents indicated that there is a disciplinary officer directly responsible for handling judicial matters on their campuses. Of the 97% of institutions having a disciplinary officer, 85% report to the chief student affairs officer or the institution's president. Study results on disciplinary proceedings show that more than 90% of the respondents indicated a student affairs unit on campus had disciplinary responsibility.

The large majority (99%) of respondents indicated that their institution had a written code governing their judicial proceedings however, publishing and dissemination methods varied. Further, large, significant differences were found among respondents on allowing attorneys or others (non-attorneys) to participate in disciplinary hearings.

The authors suggest that disciplinary functions were increasingly being assigned to a judicial officer in student affairs who reports to the chief student affairs officer. Moreover, almost all institutions were recognizing the need for a written code of student conduct, which is typically published in student handbooks. The authors assert that those involved with the

establishment or review of disciplinary procedures must give attention to the details of the conduct code and the manner in which the code is used.

This study addresses the use of conduct codes by members of the Association for Student Judicial Affairs. Although the results summarized judicial practice by members of ASJA, a limitation of the study is the generalizability of the results to institutions without members in the association. Institutions without membership in the association may operate differently in practice than surveyed members. Nonetheless, the study adds an important body of research to the limited research on the use of conduct codes.

Hoekema

Hoekema (1994) conducted a study on student affairs administrators' perceptions of the disciplinary climate on college and university campuses. This study was part of a larger research project on student behavior and the demise of *in loco parentis*.

An extensive two-part questionnaire was mailed to chief student affairs officers at 76 colleges and universities in the United States. The sample was purposely drawn to include institutions that played a leading role in American higher education. The institutions in the sample included liberal arts colleges, large and small state universities, as well as religiously affiliated institutions. The sample was overly representative of liberal arts colleges and contained a large portion of highly prestigious institutions in each category. Of the 76 mailed questionnaires, 49 complete questionnaires were returned for a 64% response rate.

The theme of responses from the survey show institutions of higher education moved away from *in loco parentis* and moved towards a shared responsibility within the college community. The most cited change in policies and procedures was the increased focus on alcohol use. Another important change in policies and procedures governing student conduct was the

adoption of new or extensively revised codes of student conduct by many institutions. It was also noted that students were becoming more involved in the disciplinary policies and the enforcement of those policies.

Participants responded that the most success in encouraging responsible student conduct occurred in two areas: academic integrity and alcohol use. Academic integrity and honesty success was achieved through the adoption or revival of honor codes or through better dissemination and enforcement of policies. Alcohol abuse was reported to be coming under control unlike previous years.

When describing ways in which the threat of legal action has compelled changes in rules of conduct and modes enforcement, the majority of the respondents indicated little or no effect. However, several noted the growing number of lawsuits against higher education institutions, which led to a great specificity and clarity in regulations and procedures.

In response to questions about the makeup of hearing bodies, the most common bodies were committees of administrators only and committees of faculty, administration, and students. Committees of faculty, administration and students – where no one group has the majority – were most commonly used to hear cases.

The final questions in the survey addressed the institution's method of communicating expectations to students. Formal student consent to disciplinary codes was not a common practice even though contracts on institutional rules and liability waivers were commonly signed. A minority of institutions had experienced legal challenges to the institution's authority to enforce behavioral rules or a claim of negligence in overseeing student behavior.

Although the specific results of this study depict the campus environment on college campuses around 1990, the sample selection technique does not allow for broad application to all

institutions during this time frame. However, the focused questionnaire on student conduct codes and regulations obtained telling information and could easily be used in another study with a larger, random sample. Hoekema's study is important to the research on student conduct codes and begins to address specific policies and procedures in higher education disciplinary functions.

Palmer, Penney, Gehring & Neiger

Palmer, Penney, Gehring and Neiger (1997) studied the use of language prohibiting hate crimes in campus codes of conduct to determine whether the language used was unlawfully regulatory of speech and behavior. Further Palmer et al. looked at two Supreme Court decisions regarding hate speech: *R.A.V. v. St. Paul* decided in 1992 and *Wisconsin v. Mitchell* decided in 1993.

The authors used a three section survey sent to 208 senior student affairs officers in the NASPA Region IV-East within the continental United States including Minnesota and Wisconsin, the two states involved in the *R.A.V.* and *Wisconsin* decisions. The first section of the survey asked demographic information. The second section considered the language within codes of conduct prohibiting hate crimes. The third section of the survey considered the *R.A.V.* and *Wisconsin* decisions in regard to knowledge, perceived applicability and use by senior student affairs officers. Of the 208 surveys sent to senior student affairs officers, 139 SSAOs responded for a 67% response rate.

The results of the study showed 48% of respondents affirmatively responded that their institution's code of conduct prohibited hate crimes of any type. Another 19% of respondents indicated that their institutions were considering including or revising language in the code of conduct that would prohibit hate crimes while 32% reported not considering including or revising the language in the code of conduct.

Further results from the study showed that 42% of respondents were familiar with the case *R.A.V. v. St. Paul*, 69% believed that the case was applicable to codes of conduct, and 24% said they had used or would use the case as a basis to change conduct codes. Senior student affairs administrators at public institutions were more likely to be familiar with *R.A.V.* (53%), believe it is applicable to codes of conduct (84%), and have applied or would apply the case to their codes (31%). None of the respondents from Minnesota (n=13), where the *R.A.V.* case originated, said they had or would use this case to change the code of conduct at their institution.

Likewise, 42% of respondents were familiar with the case *Wisconsin v. Mitchell*, 81% believed that the case was applicable to codes of conduct, and 44% said they had used or would use the case as a basis to change conduct codes. Further, SSAOs at public institutions were more likely to be familiar with *Wisconsin* (53%), believe it is applicable to codes of conduct (87%), and have applied or would apply the case to their codes (59%). SSAOs from Wisconsin, where the case originated, were twice as likely to use the case as a basis to change their codes of conduct.

Although the specific results of this study are telling about SSAOs in relation to hate crime legislation and campus conduct codes in the NASPA Region IV-East, the sample does not allow for broad application to all institutions in the United States. Yet, the study results show if senior student affairs officers revised their campus conduct codes in light of new legislation. The results are important to the growing research on and discussions of campus codes of conduct, their content and use. Additionally, this Palmer et al. (1997) study has relevance to the current study because it looked at the use of specific language in student conduct codes.

Palmer, Penney, Gehring & Neiger

Attending to the research outcomes of the same larger study as above, Palmer et al. (1998) published the results of the study that addressed hate speech and hate behaviors in conduct codes to create a model code for public institutions. The sample and methods were the same as in the previous study. This review focused on 38 of the 139 respondents (58%) who submitted sections of their codes of conduct prohibiting hate crimes of any type. One of the authors, an attorney with extensive experience in First Amendment case law, conducted a document analysis on the 38 sections of conduct codes to gain a more complete understanding of the constitutional problems encountered when institutions develop policies that regulate speech and behavior. The goal of the document analysis was to create a model policy that would effectively address hate speech and behavior without violating the First Amendment.

The results of the document analysis showed that the codes typically infringed on student's constitutional rights by being either overbroad (burdening or punishing constitutionally protected activities) or vague (forces the reader to guess at the meaning). Overbroad codes do not require that regulated speech or conduct must naturally tend to provoke a violent, fistcuffs-type reaction – the fighting words doctrine – as established by *Chaplinsky v. New Hampshire* (1942) and *Post v. Board of Regents of University of Wisconsin System* (1991). Vague codes – as established by *Doe v. University of Michigan* (1989) – do not define terms of common understanding and therefore, require the reader to define the terms for his or herself. Furthermore, the results showed the conduct codes unconstitutionally restricted speech based upon content of the message and expression of the speakers' emotion.

The specific results of this study addressed the regulation of hate speech and behavior in campus conduct codes; however, these results can be applied to many sections found in a code of

conduct prohibiting behavior. The applicable sections include information where legislation has passed or court decisions have been handed down regulating the content of the code in some form. This study is important to the research on conduct codes and the current study because it is the only study, thus far, that uses document analysis to interpret the data. Furthermore, this research is important because it addresses the actions of SSAOs in response to authoritative declarations such as court decisions.

Fitch & Murry

Fitch and Murry (2001) reported a study conducted to classify and assess the effectiveness of student judicial systems in doctoral-granting universities. A 26-item questionnaire was created after reviewing 25 years of literature on various aspects of judicial systems and examining 45 conduct codes. The sample included chief judicial affairs officers from 236 doctoral-degree granting postsecondary institutions with Carnegie classifications of Research I, Research II, Doctoral I, or Doctoral II. Of the 236 questionnaires, 141 were returned for a 60% response rate.

The questionnaire was divided into four sections: terminology (identifying key language), process (methods to adjudicate misconduct), characteristics (identifying common judicial system elements), and outcomes (number of total cases, appeals, sanctions modified, repeat offenders, and lawsuits filed against institutions). The level of formality in each judicial system was determined by giving each of the questions a z-value and combining the z-values to obtain a z-score for each institution. The institutions were then placed on a continuum by z-score resulting in three categories of institutions: formal systems (far left of the continuum), hybrid systems (middle of continuum), and informal systems (far right of the continuum).

The data were analyzed using one-way ANOVAs to determine if significant differences in effectiveness existed among the three classifications based on the outcomes measures in section four of the questionnaire. Chi-square tests were conducted to determine if statistically significant differences existed between individual questionnaire items.

In section one of the questionnaire the authors found many similarities between the level of formality and the use of legal terminology in an institution's conduct code. None of the respondents indicated that legal terminology was used exclusively in their student conduct code. Likewise, no respondent indicated the absence of all references to legal terminology. Informal judicial systems were less likely to use legal terminology and usually took less of an adversarial approach than hybrid or formal systems.

Section two of the questionnaire addressed the various processes present in campus judicial systems and the use of prosecutors, subpoenas, legal counsel as well as sanctions were criteria to classify judicial systems. The use of legal counsel during a hearing was only permitted in one informal system. Mixed and formal systems were similar in response to judicial process questions. For example, both systems used subpoenas for witnesses and parties; however, formal systems use subpoenas more frequently.

Section three of the questionnaire addressed the characteristics of campus judicial systems. There was little difference between the three systems on the burden of proof required. Three formal systems, one hybrid system, and no informal system required a "beyond a reasonable doubt" standard. Likewise, all three systems were fairly similar in the type of attire worn by the judicial boards. Most systems used a casual attire of board members during hearings and only one institution – a formal system institution – had board members wear robes during a hearing.

Section four was used to determine the effectiveness of a judicial system (formal, informal, and hybrid) in adjudicating student misconduct. In all of the effectiveness comparisons one-way ANOVAs were conducted and no statistically significant differences were found among the three systems in any of the comparisons.

The results of this study are important because they show that formal judicial systems are not statistically more effective than informal judicial systems or hybrid judicial systems in addressing student misconduct. These results are significant when placed in context with the recent literature on judicial codes, which places an emphasis on removing legal terminology and references from all student conduct codes.

Gaps in the Literature

The literature on student judicial affairs can be grouped into two categories: general and specific. General judicial affairs literature includes policies and practices over the past several decades including the climate and trends, the organization of judicial affairs offices, the effects of legislation, the change in the student-institution relationship, and elements that should be included in judicial affairs publications. Specific judicial affairs literature includes individual aspects or characteristics of judicial affairs practices.

There is a great deal of literature on general judicial affairs. The research studies since 1990 above describe practices, trends, climate, organization, and effects of legislation. Dannells (1997), Smith (1994), and Travelstead (1987) among others have given a historical overview of student discipline and the student-institution relationship. Court cases and research of the effects of legislation have brought understanding to how legislation has affected the role of administrators and how student discipline is put into practice. Scholars in the field such as Stoner, Pavela, and Gehring have discussed what should and should not be included in judicial

affairs publications. This literature adds to a general understanding of judicial affairs, how it evolved and how it is practiced.

However, literature on specific aspects or characteristics of judicial affairs is lacking. Little to no literature exists on elements of the day-to-day practice of judicial affairs. Questions to be answered, for example, include: What philosophy do administrators take in regard to judicial affairs?; Is the judicial office structure effective?; What barriers exist between office staff and students?; Are student handbooks effective or do students read them before it is 'too late?'; and Are published policies and procedures followed or merely available for reference? . Moreover, analyses of office documents and publications used in practice have not been conducted. This study sought to fill a small piece of this gap in the specific literature on judicial affairs by analyzing the language used in student conduct codes.

Stoner and Cerminara: Model Code of Student Conduct

Stoner and Cerminara (1990) asserted that institutions should remove all legal terminology from student conduct codes. To assist in the revision of student conduct codes to remove all legal terminology, Stoner and Cerminara created a model code of student conduct. Stoner and Cerminara's Model Code of Student Conduct guided the document analysis of student conduct codes in this study. Specifically, Stoner and Cerminara's model code was used to determine the format of and language in a student conduct code.

Four general principles guide the creation of a model code: (a) creators should follow the general dictates of due process, (b) a model code should not be drafted with criminal statute specificity, (c) all principles in the code should reflect prevailing laws, and (d) a model code should include a section of student rights (Stoner & Cerminara, 1990). Stoner and Cerminara's

model student conduct code includes five sections (definitions, judicial authority, proscribed conduct, judicial policies, interpretation and revisions) with commentary following each section.

Definitions

The definitions section lists individual terms and a definition for each. Additional clarifying statements may also be included. For example, “the term ‘member of the [College/University]’ includes any person who is a student, faculty member, [College/University] official or any other person employed by the [College/University]. A person’s status in a particular situation shall be determined by [title of appropriate college or university administrator].” Terms defined in this section include: student, faculty member, member of the community, college premises, organization, judicial body, judicial advisor, appellate board, shall, may, judicial authority, cheating, and plagiarism.

Judicial Authority

The judicial authority section outlines what authority the judicial advisor and judicial body have within the operation of the judicial system. The judicial advisor is assigned the authority to determine the composition of the judicial body and determine which judicial body will hear each case. The judicial advisor also has the authority to develop policies for the administration of the judicial system and procedure for hearings within the provisions of the student code.

The judicial body or judicial advisor’s decisions are final pending the appeal process. The judicial body may also be designated as arbiter of disputes within the community that do not involve a student code violation.

Proscribed Conduct

The proscribed conduct section is divided into three subsections: (a) jurisdiction of the college/university, (b) conduct rules and regulations, and (c) violation of law and college/university discipline. The college/university jurisdiction is limited to conduct occurring on campus premises or conduct that occurs off-campus, which adversely affects the college community and/or the pursuit of the college/university's objectives.

The conduct rules and regulations are specific acts that are deemed to be misconduct and subject the student to disciplinary sanctioning. Each act constituting misconduct is stated and a definition or example of that violation is provided. For example, "Failure to comply with directions of [college/university] officials or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so." Conduct in this section includes: acts of dishonesty, disruption, abuse, theft, hazing, unauthorized possession, possession of illegal or unauthorized items (drugs, alcohol, guns, etc.), disorderly conduct, abuse of judicial system, and any other act deemed to be misconduct by each individual institution.

The violation of the law and college/university discipline section details the right of the institution to address student misconduct that also violates local, state, and/or federal laws. This statement outlines that the institution response to misconduct is clearly distinct from that of law enforcement. Additionally, this section details the interactions permitted between administrators and law enforcement agencies.

Judicial policies

The judicial policies section of the model code is divided into four subsections: (a) charges and hearings, (b) sanctions, (c) interim suspension, and (d) appeals.

The charges and hearings subsection details how charges are brought against a student or students as well as the process of investigating and hearing the case. Any member of the college/university community may file charges in writing to the judicial advisor in a timely manner. The judicial advisor may conduct an investigation to determine if the charges have merit or should be dismissed administratively. Charges and time of the hearing should be given to the charged student in writing. Time limits should be set to ensure prompt resolution of cases (i.e. hearing no less than five days and no more than fifteen calendar days after student notification.)

A judicial body should conduct the hearing according to established guidelines. Example guidelines include: a private hearing, individual hearings if the case involves multiple students, an advisor may assist a student or witness, pertinent evidence may be presented, a majority vote determines if a violation occurred, and a 'more likely than not' basis should be used to determine if a violation occurred. A single verbatim record should be required such as a tape recording. Finally, a student should not be found in violation of the code because the student fails to appear unless the student has been charged with failure to obey a summons of a judicial body.

The sanctions section lists possible sanctions that may be imposed if a student is found to have violated the code. Sanction actions are listed with a definition of that action. For example, "Discretionary Sanctions: work assignments, service to the [college/university] or other related discretionary assignments (such assignments must have the prior approval of the judicial advisor)." Possible sanction options include: warning, probation, loss of privileges, fines, restitution, suspension, and expulsion. A statement detailing combinations of sanctions should be included. No sanction, other than expulsion should be made part of a student's permanent academic record, but will become part of the student's confidential record. A statement detailing when a student record will be expunged should be included. Included in the sanction section is a

subsection detailing group or organization sanctions. The judicial advisor shall determine and impose all sanctions and provide to the accused student, in writing, the outcome of the hearing and sanctions, if imposed.

The interim suspension section describes situations where an administrator may impose a college/university or residence hall suspension prior to the hearing. This should be done to ensure the safety and well being of the community and/or the student. The limitations placed on a student during interim suspension are defined (i.e. not enter residence hall or attend social activities).

The appeals section provides the process for a student to appeal the outcome of a hearing. This process includes appealing within a specified time frame (i.e. 5 class days) and hand delivering the appeal to the appropriate judicial authority. An appeal is only a review of the verbatim record of the initial hearing (unless new evidence is presented) and is limited to one of four basis: (a) determine the fairness of the original hearing, (b) decide if the facts were sufficient to determine a violation occurred, (c) determine if the sanction imposed was appropriate, and (d) consider new evidence not available in the initial hearing.

If an appeal is upheld, the case will be remanded to the judicial body and the hearing will be re-opened to reconsider the original determination of a violation or the sanctions imposed. An appeal by the accused student on the basis of an inappropriate sanction may not result in a more severe sanction however the sanctions can be reduced. An appeal by persons other than the accused student, upon review, can be upheld, remanded to the original judicial body, or the sanctions can be increased or decreased.

Interpretation and Revisions

The interpretation and revisions section includes two statements. The first statement assigns final interpretation of the code to one administrator. The second statement assigns a student code review schedule (i.e. once every five years).

Conclusion

The student-institution disciplinary relationship has evolved from the early years of higher education where *in loco parentis* served as the underlying philosophy governing administrators through to the turbulent 1960s and 1970s where student activism and increased litigation diminished *in loco parentis* and a legalistic approach to student discipline developed. In the past two decades judicial affairs administrators charged with the duty of student discipline have tried to move from legalistic proceduralism to disciplinary regulations.

To assist administrators with the transition from legalistic proceduralism to disciplinary regulations, scholars in the field of judicial affairs have presented model codes of student conduct to be used by administrators in revising student codes yet little research has been conducted to determine if institutions taken the advice to move from legalistic to disciplinary regulations. This study sought to fill the gap in the existing judicial affairs literature exploring the language used in colleges and university conduct codes.

CHAPTER THREE

Methods

This study is a qualitative content analysis of college and university student conduct codes. Student conduct codes are policies and procedures followed by college and university administrators and/or their designees when addressing student misconduct. Scholars in the field of student affairs, specifically judicial affairs (Pavela, 1979; Stoner & Cerminara, 1990; and Gehring, 2001), have recommended that legalistic tone and terminology be removed from college and university student conduct codes. The purpose of this study is to analyze student conduct codes to determine the extent to which college and university administrators have adopted Stoner and Cerminara, Gehring, and Pavela's suggestion to remove legalistic language from their student conduct codes.

This study was designed to answer the following questions:

1. What type of language is being used in college and university student conduct codes?
2. Does the type of language vary by institutional type (public v. private)?
3. Does the type of language vary by institution size (small v. large)?

This chapter describes the research design including sample selection, data collection procedures, and data analysis procedures.

Sample

I used the Carnegie Classification of Institutions of Higher Education (McCormick, 2001) to identify the sample. Four institutional classifications were used in this study: public, private, large (full time student enrollment > 15,000), and small (full time student enrollment < 5,000). All institutions were 4-year, not-for-profit institutions. All but four not-for-profit institutions within the Carnegie Classification of Institutions of Higher Education could have been selected.

The researcher removed her undergraduate and graduate institutions as well as one large, private institution and one small, public institution because they were used to test the data analysis procedure.

The Carnegie Classification of Institutions of Higher Education 2000 edition, the most current edition available, was downloaded as a spreadsheet file from the Carnegie Foundation website download page (<http://www.carnegiefoundation.org/Classification/CIHE2000/downloads.htm>). The file was then converted to an SPSS file. Next, all non-4-year institutions and for-profit institutions were removed from the Carnegie Classification data file. The data file of all 4-year, not-for-profit institutions was used to draw two separate samples. By limiting the types of institutions included in the two sample populations the results of this study cannot be generalized to two-year and specialized degree institutions.

First, the data file was used to obtain a sample population based on institutional type (public and private). This sample included all public and private institutions regardless of institution size. Second, the data file was used again to obtain a separate sample population based on institutional size (small and large). Restricting institution size omitted institutions with full time student enrollments between 5,001 and 14,999 from the sample population. By limiting the size of institutions in this sample population, the study results cannot be generalized to institutions with an FTE of 5,001 to 14,999.

To select public institutions, I randomly ordered the first SPSS data file and then removed all private institutions. Next I decided if the institution had viable data. This was established by reading through the document to verify that it contained three analysis sections (a preamble section, a conduct codes section, and a judicial procedures section). If the institution

had viable data it was included in the public institution classification. I used this process until five institutions were selected in the public institution classification.

To select private institutions, I randomly ordered the first SPSS file and then removed all public institutions. Next I decided if the institution had viable data; established by reading through the document to verify that it contained three analysis sections (a preamble section, a conduct codes section, and a judicial procedures section). If the institution had viable data it was included in the private institution classification. I used this process until five institutions were selected in the private institution classification.

To select large and small institutions, I used the randomly ordered second SPSS file and decided if the institution had viable data established by reading through the document to verify that it contained three analysis sections (a preamble section, a conduct codes section, and a judicial procedures section). If the institution had viable data, I accessed the institution's online fact sheet to find the full-time student enrollment (FTE). If the institution had an FTE of more than 15,000 students it was placed in the large institution classification. If the institution had an FTE of less than 5,000 students it was placed in the small institution classification. I used this process until five institutions were selected in the large institution classification and five institutions were selected in the small institution classification.

The sample for this study was comprised of 20 institutions. The first five institutions with complete data in each classification were included in the data analysis. No institution was included in more than one classification.

Data Collection Procedure

If the institution was classified into one of the four institutions classifications (public, private, large, and small), three copies of the student conduct code were printed from the

institution's website. The first copy was kept in original condition and two copies were used to code the data.

Data Analysis Procedure

I conducted a content analysis on the college and university student conduct codes. A content analysis is a systematic procedure that describes the content of various forms of communication (Merriam, 1998). Content analysis is conducted through a sequential process. The researcher constructs descriptive categories to sort the data, obtains a sample, collects the data, and then analyzes the data and interprets the results. Research novices who are trained to use a set protocol and count units of analysis often conduct the data collection and coding of the data in the analysis process. A set protocol is a system for coding and cataloging the data into the constructed descriptive categories.

Conducting a content analysis on research documents has advantages and disadvantages (Merriam, 1998). The disadvantages of documentary data include concerns such as the documents are not originally developed for research purposes and therefore may be incomplete or may not be presented in a useful or understandable form. The advantages of conducting a content analysis on documents are that documents are easily accessible, typically cost nothing to obtain, and they contain important information that may take a researcher a large amount of time and effort to collect by other methods. Another important advantage in using documents is the stability of the data because documents are an objective and unobtrusive form of data.

The data for this study were collected on-line. On-line collection of documents for content analysis is a more modern technique to obtain data (Merriam, 1998). Electronic data collection offers a wider scope of available data. However, the collection of on-line data has two important limitations, which a researcher must consider. First, the quantity of information on-line

is not a guarantee of comprehensiveness. Second, on-line documents are easily changed. An on-line document citation may be present when data collection is occurring; however, the page can be removed or radically changed after the data has been collected making replication of the study difficult.

To analyze the content of the data in this study, I developed descriptive categories to sort the data. I used Stoner and Cerminara's Model Code for Student Conduct (1990) to guide the development of the descriptive categories in which to sort the data. Stoner and Cerminara's model has three major sections: (a) an introductory section, (b) policies on campus conduct, and (c) procedures to address alleged misconduct. Following Stoner and Cerminara's model, I defined the three descriptive categories for the analysis of the student conduct codes as the preamble; conduct codes, and judicial procedures.

The preamble, conduct codes, and judicial procedures for each document in the sample were analyzed to determine if the language used was legalistic or non-legalistic. Legalistic language would be reflective of the American court system. Non-legalistic language would be the antithesis of legalistic language. The units of analysis were words and phrases used within sentences that represented the general context of the document. I used Stoner and Cerminara's (1990), Pavela's (2000) and Gehring's (2001) recommendations and model codes to identify words and phrases characteristic of legalistic language and, likewise, words and phrases characteristic of non-legalistic language.

Preamble

The preamble consists of any section(s) addressing the purpose and philosophy of student life policies and procedures. Also included in the preamble are discussions of scope and interpretation of the policies and procedures as well as the institution's judicial authority. Table 1

lists samples of language used in a legalistic preamble and the correlating language found in a non-legalistic preamble.

Conduct Codes

The conduct code section is a list of inappropriate conduct including definitions of the conduct and examples of acts that constitute the inappropriate behavior. The conduct code section may also address the institution's ability to discipline a violation of the law and college discipline codes.

A legalistic conduct code section might quote or directly reference federal, state and local laws, statutes, and ordinances ([Term] "as defined by state law") while the language used may mirror the court system. For example: Breaking and Entering – entering an occupied dwelling with intent to commit a misdemeanor (State Statute Number).

A non-legalistic conduct code section might include on-and-off campus actions, which violate the set community standards and adversely affect the college community. The language used in a non-legalistic conduct code should be institutionally defined ([Term] – institutional definition). For example, unauthorized entry is entering or being present in [institution] buildings without proper authority.

Judicial Procedures

The judicial procedures consist of all policies and procedures used in the hearing process to address misconduct. This section may include hearing procedures, provisions for due process, sanctions, appeals, as well as policy and procedure interpretation authority. Table 2 lists samples of language used in legalistic judicial procedures and the correlating language found in non-legalistic judicial procedures.

Table 1

Language Used in a Legalistic and Non-Legalistic Preamble

Legalistic Language	Non-Legalistic Language
Administrator(s) with judicial authority	Administrator(s) with judicial authority
Federal and state legislation protecting student rights (FERPA, ADA, etc.)	Federal and state legislation protecting student rights (FERPA, ADA, etc.)
Judicial system is punitive to wrongdoer	Judicial system is educational in nature
Set criminal court standards for behavior	Set minimum standards for student behavior
Student rights granted in U.S. Constitution	Student rights granted in U.S. Constitution and additional institutional rights granted
Summary of United States court system	Summary of philosophy of and purpose for student life policies and procedures

Table 2

Language Used in Legalistic and Non-Legalistic Judicial Procedures

Legalistic Language	Non-Legalistic Language
appeal	appeal/reconsideration of the outcome
convicted	found responsible
court of law	judicial system
criminal court procedures	institutionally established procedures
defendant	accused student
due process	due process/fundamental fairness
evidence	evidence
guilty if fail to appear and/or speak	no judgment if fail to appear and/or speak
guilty/not guilty	responsible/not responsible
jury	committee/hearing panel
plaintiff	accusing party
preponderance of the evidence/ beyond a reasonable doubt	substantial information/ more likely than not
punishment/sentence/penalty	sanction
sustained	upheld
testimony/testify	account/information/summary of events
trial	hearing
verdict	decision

Coding

A color-coded highlighting system was used in the analysis of each student conduct code to determine if the language used in the document was legalistic or non-legalistic. Legalistic language was highlighted with a yellow highlighter. Non-legalistic language was highlighted with a green highlighter. There were several words and phrases that were considered to be both legalistic and non-legalistic: administrator with judicial authority, federal and state legislation protecting student rights (the Constitution, FERPA, ADA, etc.), and due process. To determine if each use of a word or phrase was either legalistic or non-legalistic, the nature of the surrounding text was determined as legalistic or non-legalistic in nature and then a final determination of the nature of the individual word or phrase was decided.

Determining Document Classification

The types of language used in college and university student conduct codes examined in this study were classified as either legalistic or non-legalistic. To determine the types of language used in each student conduct code analyzed four document categories were created: (a) N-L, (b) N-L L, (c) L & N-L, and (d) L. Conduct codes classified as (N-L) had all non-legalistic language throughout the entire document. Conduct codes classified as (N-L L) had non-legalistic language overall, yet each occasionally had legalistic words, phrases, and/ or sections. Conduct codes classified as (L & N-L) had both legalistic and non-legalistic language throughout. Conduct codes classified as (L) had all legalistic language throughout the entire document.

Trustworthiness and Authenticity

Authenticity is defined as the consistency of data collection and how relevant the data are to the research questions (Miles & Huberman, 1994). Authenticity in this study was enhanced using primary source documents, which are likely to be accurate.

Trustworthiness is defined as the truthfulness of the data collected (Miles & Huberman, 1994). The data collected in this study were printouts of existing documents available to the public via the Internet. Any institution could have been chosen for the sample and supplied the same type of document; therefore, the data were reasonably truthful and not unique to the specific study sample. Furthermore, due to the legal ramifications inherent in contract and constitutional law, it is not likely that institutions would publish inaccurate, misleading, or false documents.

To further enhance the trustworthiness of the data, a confederate reviewer was used during the data analysis process. I met with and trained the confederate reviewer on the data analysis procedures developed for this study. To train the confederate reviewer, I reviewed the data analysis procedures step by step and clarified any questions the reviewer had about any of the procedures.

The confederate reviewer analyzed each document in the sample following the outlined data analysis procedure. After individual scoring, I collected the reviewer's analysis and compared our analyses to determine if there were any differences in interpretation between each of our samples. If there were differences, the differences were noted and I met with the confederate reviewer to discuss the differences in our interpretations of the type of language used in each document. A final decision was made on the type of language (legalistic or non-legalistic) for each item coded. This process validated the coding decisions and limited researcher bias.

Test of Methods

To check the data analysis procedure, the researcher and an independent reviewer conducted four test analyses using the student conduct code from the researcher's undergraduate

(small, private) and graduate institutions (large, public) as well as a randomly selected large, private institution and a randomly selected small, public institution. The four test institutions selected were representative of the study sample. The test analyses assisted in verifying the data analysis process and ensured the study could be accurately replicated.

CHAPTER FOUR

Results

This chapter summarizes the results of the data analysis. It begins with a discussion of the data collection process followed by a discussion of the types of language used in the conduct codes. Next, the results of the first research question: what type of language is used in college and university student conduct codes. Fourth, the institutional demographics and results of the document analysis for each institution in the second research question are discussed. A discussion of the second research question, does the type of language used in student conduct codes vary by institutional type (private vs. public), follows. Afterwards, the institutional demographics and results for each institution in the third research question are discussed followed by a discussion of the third research question: does the type of language used in student conduct codes vary by institutional size (small vs. large). The final section is a summary of the findings.

Data Collection Process

In collecting the data for this study, I used an SPSS data file for each institution classification (public, private, small, and large). In selecting institutions for the sample, I started at the beginning of the randomly ordered list of institutions and determined if the institution had an online student conduct code. If an online student conduct code was found, I determined if the student conduct code document had viable data. This was established by reading through the document to verify that it contained three analysis sections (a preamble section, a conduct codes section, and a judicial procedures section). If the institution had viable data it was included in the sample. I used this process until all four classifications contained five institutions each.

During the data collection process for each of the institution classifications, four institutions total were not included due to the inability to find an online student conduct code. Additionally, three institutions total were not included due to non-viable data.

Type of Language Used in College and University Student Conduct Codes

The types of language used in college and university student conduct codes examined in this study were classified as either legalistic or non-legalistic. To determine the types of language used in each student conduct code analyzed four document categories were created: (a) N-L, (b) N-L L, (c) L & N-L, and (d) L. Conduct codes classified as (N-L) had all non-legalistic language throughout the entire document. Conduct codes classified as (N-L L) had non-legalistic language overall yet each occasional had legalistic words, phrases, and/ or sections. Conduct codes classified as (L & N-L) had both legalistic and non-legalistic language throughout. Conduct codes classified as (L) had all legalistic language throughout the entire document.

All five of the public institutions were classified (N-L L). The documents of two private institutions were classified (N-L), two were classified (N-L L), and one was classified (L & N-L). The documents of two small institutions were classified (N-L) and the remaining three institution's documents were classified (N-L L). All five of the large institutions were classified (N-L L). Overall, 15 conduct codes were classified as (N-L L), four were classified as (N-L) and one was classified as (L & N-L).

The language used in the student conduct codes does not vary greatly among public and private institutions or among small and large institutions. Sixteen of the institutions were classified as having student conduct codes with legalistic words, phrases, and/or sections. Only four institutions had student conduct codes with only non-legalistic language. Therefore, the

majority of the institutions continue to have some legalistic language in their student conduct codes.

Public Sample

Five institutions comprised the public sample. One institution was Carnegie Classified as Doctoral/Research Universities – Intensive. Three institutions were Carnegie Classified as Master’s Colleges and Universities I and one institution was Master’s Colleges and Universities II. Two institutions are located in the northeast and one institution each is located in the northwest, the southwest, and the mid-west respectively. To ensure the anonymity of institutions in this study all public intuitions were renamed Pub1-5.

Pub1

Pub1 is a mid-west, Doctoral/Research Intensive University with a medium size full-time student enrollment. Pub1’s student conduct code is a 25-page document. The document begins with a letter to the university community outlining the purpose for the document, the original adoption by the Board of Trustees, and gives the Dean of Students judicial authority. The overall document is formatted where headings categorize the information and the information is in numbered points. This document addresses both social and academic regulations.

Preamble.

The preamble of Pub1’s student conduct code explains that the university is an academic community committed to the discovery of knowledge and truth while protecting the rights and freedoms of all community members. Each community member is expected to conduct his/herself in a manner consistent with the values of the institution. The preamble establishes five general principles of student conduct: the community requires a system of order supportive of the educational process; individuals must have respect for others and a diversity of opinions;

educational function depends on honesty, integrity, and a respect for truth; community members should be free to study, examine and act upon social issues, responsibly express individual views; and individuals make ethical choices and the responsibilities associated with each choice.

For example, the first general principle of student conduct is:

The community requires a system of order supportive of the educational process, which is the purpose of the University. Primary responsibility for preserving the system of order rests upon the individuals making up the community. Each individual must accept responsibility for his or her own actions and values and for recognizing that such actions and values affect the whole community. Implicit in the community's recognition of the rights of the individual is an obligation on the part of the individual to accept responsibilities toward the community. (p. 1)

The preamble is followed by a list of 14 student rights afforded through state and federal law as well as policies adopted by the institution's Board of Trustees. Several of the rights included are the right to free inquiry, expression and association; protection against improper disclosure of and personal access to their educational record; to be informed of course requirements at the beginning of a course; to be evaluated solely on relevant academic criteria; and to file a complaint about academic matters. For example, "students have the right to educational programs that meet the objectives of the master syllabus, to teaching consistent with those objectives, and to a learning environment that encourages the student's engagement with their education" (p. 2).

After the student rights are outlined, a student's relationship with the institution is explained. Specifically, the institution agrees to respect the rights of each student in all dealings as guaranteed through the United States and state constitutions and laws. Additionally, all

registered student organizations are open to all students without regard to protected class. Finally, students are allowed to question institutional policies and offer opinions publicly or privately as well as support causes in any orderly, non-disruptive means.

Following the outlining of the student-institution relationship, student and faculty responsibilities are discussed. Students are responsible for completing course requirements and making a positive contribution to the established learning environment. Faculty members are to prepare appropriate course materials and conduct the course in a manner that will accomplish the intended goals and objectives.

This section of the student conduct code concludes with brief explanations of the student's relationship with law enforcement agencies, confidentiality of information, and student associations. Students are encouraged to report crimes to both the university and law enforcement agencies. Confidential student information acquired in the course of a staff member's work is to be held in strict confidence and disclosure of confidential information is a university violation. Finally, students are free to form and join associations so long as all activities are conducted in accordance with university regulations and public law.

The preamble section is written in non-legalistic language and summarizes the purposes of having a student conduct code that is educational in nature. By establishing basic principles, the institution set forth the acceptable minimum student behavior in the community. Additionally, students are notified of their individual and collective rights granted through federal and state constitutions and laws as well as rights granted by the institution.

Conduct Codes.

The student conduct codes section begins with general regulations for student conduct followed by specific regulations. The general regulations establish the administrators (President,

Provost, and Dean of Students) with judicial authority as well as on- and off-campus locations where a student's actions may result in university disciplinary actions. An example would be:

The University shall take disciplinary action in cases concerning a student's actions or offenses occurring within or affecting people on property within the physical boundaries of [Institution], on or affecting University owned or controlled property, or when the student is in attendance at a University-sponsored event, or when the interests of the University as a community, are clearly involved. Only where the health and safety of members of this community, are clearly involved shall the special authority of the University be asserted in other cases. (p. 4)

The specific regulations about student conduct are listed as definitions. These regulations include such items as academic dishonesty; false information; disruption of learning; property damage; possessing firearms or explosives; computer abuse; participating in a riot; discrimination; and violation of federal, state, and local laws; and others such as,

Access to Facilities. A student shall not enter, or attempt to enter, closed University facilities or facilities clearly under the control of an individual, e.g., student vehicles, rooms or apartments; disrupt or attempt to disrupt, the scheduled use of University facilities; block, or attempt to block, access to or from University facilities; or remain within, or attempt to remain within, University facilities after their closing unless authorized to do so by the President, or the President's designated representative. (p. 5)

The student conduct codes, with one exception, are written in non-legalistic language. The one exception to the non-legalistic conduct codes is one legalistically written item, disorderly conduct – “**Disorderly Conduct.** A student shall not act as a disorderly person or engaged in disorderly conduct or disturb the peace, as defined by state statute or local ordinance”

(p. 5). The institution established that on- and off-campus student behavior negatively impacting the campus community would be adjudicated. The behaviors that would be adjudicated were institutionally defined and were not defined by federal, state, or local laws. Federal, state, and local laws were referred to concerning controlled substances only after the institutional definition is provided.

Controlled Substances. A student shall not possess, use, manufacture, produce, or distribute, or aid in the use, manufacture, production, or distribution or, any controlled substance except as expressly permitted by law. Controlled substances are defined in the Controlled Substances Act of 1971, as amended. (p. 5)

Judicial Procedures.

The judicial procedures section begins with university sanctions. The listed sanctions may be imposed for violation of University regulations. They include: reprimand, University or community service, restitution, fines, removal from University housing, campus restrictions, educational programs, revocation of privileges, disciplinary probation, temporary sanctions or suspension, suspension, and/or dismissal. The sanctions section also outlines 13 grave offenses that receive an automatic sanction of suspension such as “violence against persons, which results in bodily injury requiring substantial medical treatment” and “bomb threat or knowingly false bomb warning” (p. 8).

The judicial procedures begin with intake of the case. Any person is allowed to make a charge of alleged student misconduct to the judicial proceedings officer who is the person responsible for investigating the charge. If after the investigation charges are made, the judicial proceedings officer notifies the student, in writing, of the charge. The student is given two days to respond to the notification. If the student responds to the notification, the student can meet

with the judicial officer to discuss the matter. If the student does not respond, a hearing is scheduled. A charged student may or may not admit to the violation. If the student admits to the violation, the student and the judicial proceedings officer meet and a resolution in the case is made. If the student does not admit to the violation, a hearing is scheduled and the student is notified of the date and time of the hearing.

Either a hearing officer or a hearing body conducts hearings. A charged student may have an advisor present but the advisor may not speak for the student. All hearing proceedings are tape-recorded. “The burden of proof rests with the judicial proceedings officer who must prove by a *preponderance of evidence* that a violation has occurred” (p. 11). Based upon the evidence, the hearing officer or hearing body will determine if the student violated conduct regulations and set sanctions if appropriate. The student is notified, in writing, of the hearing outcome.

The institution affords specific rights to the complainant in each case. These rights include having the right to have a person of personal choice accompany the complainant throughout the hearing, remain present during the entire proceedings, make an impact statement and suggest appropriate sanctions, be informed of the hearing outcome, appeal either the findings or the sanctions, and in cases of sexual assault not have past history discussed. For example, “the complainant has the right to be informed in a timely manner of the outcome of the hearing regarding the finding and the sanction” (p. 12).

The appeals section is the final section of judicial procedures. Students found in violation of the student conduct code or the complainant may appeal either the decision or the sanction imposed. A written appeal must be made within five days after the hearing decision and the appeals board must hear the appeal within 10 days after the appeal is submitted. All appeals decisions are final except when the sanction is suspension a charged student may appeal to the

Provost. These judicial procedures are followed for individual student violations, student organization violations, and graduate student academic integrity violations.

The judicial procedures, with one exception, are written in non-legalistic language. The one exception is the burden of proof standard required during hearings. Non-legalistic language would include a burden of proof standard such as a substantial information or more likely than not. An example of legalistic language might be the *preponderance of the evidence* or *beyond a reasonable doubt* burden of proof. The burden of proof required in the judicial procedures for Pub1 is a preponderance of the evidence. Therefore, there is one aspect of the judicial procedures that is legalistic.

Document Classification.

This student conduct code document for Pub1 is non-legalistic overall. The entire document, except for two specific cases, is written in non-legalistic language. The preamble is completely non-legalistic. The conduct codes have one definition that is legalistic because it is defined by state statutes and local ordinances and the judicial procedures require a *preponderance of the evidence* burden of proof, which is legalistic. Therefore, this document is overall non-legalistic with a legalistic word and phrase (N-L L).

Pub2

Pub2 is a northwestern, Master's Colleges and Universities I institution with a medium sized full-time student enrollment. Pub2's student conduct code is a 15-page document. The document addresses only social regulations.

Preamble.

The preamble begins with a general introduction followed by definitions and a description of the interest of the university relevant to the student code then concludes with an

explanation of the relationship between civil and criminal laws and the university disciplinary proceedings. The introduction establishes the necessity for the Board of Trustees to set minimum standards of conduct to ensure that the University is “providing educational opportunities to its students, transmitting and advancing knowledge and providing a wide range of services to both students and the general public” (p. 1).

A definition is provided for two terms used throughout the document. First, a student “includes all persons taking courses at the university, both full and part time” (p. 2). Second, the University “refers to the facilities, property, programs, activities and members of the [institution] community” (p. 2).

Six University interests are established as the foundation of the student conduct codes. These interests include concern with matters impinging on academic achievement and integrity, concern with disorderly conduct that substantially interferes with the rights and safety of others, obligation to protect its property and property of members of the community, a commitment to meet contractual agreements and an obligation to support the law.

The University reserves the right to take action for any behavior that violates both civil or criminal law and university regulations which “impact on the educational or administrative functions or the general well-being of the university” (p. 2). All university proceedings can be carried out before, during, or after any civil or criminal proceedings.

The preamble is completely non-legalistic and summarizes the necessity of having a student conduct code to maintain an educational community. By establishing six institutional interests, the institution set forth the foundation needed to create an acceptable minimum student behavior expectation. Additionally, the university reserved the right to address student misconduct that may also constitute a civil or criminal law proceeding.

Conduct Codes.

The student conduct codes section institutionally defines 22 violations that subject a student to university disciplinary action. This list includes violations such as dishonesty and misrepresentation, harassment, possession of weapons, attempted violations, disorderly conduct, obstruction, and hazing. For instance, “abuse of computing facilities is theft or other abuse of computer facilities, access or time as defined in university computing guidelines and policies” (p. 3).

The student conduct codes are non-legalistic. Each code is listed and then institutionally defined. Furthermore, the institution states that the list is not exhaustive and other actions can constitute university regulation violations.

Judicial Procedures.

The judicial procedures section begins with the possible sanctions imposed on students found to have violated the student conduct code. The possible sanctions are divided into minor disciplinary sanctions, major disciplinary sanctions and group sanctions. There are 10 minor disciplinary sanctions which include actions such as admonition, warning, disciplinary probation, fines, loss of financial aid, and assessment. Suspension and dismissal are the two major disciplinary sanctions. Additionally, there are three group sanctions, which include probation, social probation, and charter restriction. Each of the sanctions are listed and then institutionally defined. As an example:

Restitution is reimbursement for damage or destruction to the property of the university others for loss of property as a result of theft or negligence, or for medical expenses from violations of this code. This may take the form of appropriate service or other compensation. Failure to make arrangements to pay will result in cancellation of the

student's registration and will prevent the student from future registration until the conditions of sanction are satisfied. (p. 6)

The next section of the judicial procedures describes the three different hearing bodies. First, a disciplinary officer reviews or investigates cases and may make decisions on certain violations. Second, the University disciplinary committee, made up of an equal number of students and faculty members, holds hearings and makes decisions on all cases heard and all appeals referred to the committee. The final hearing body is the *student courts*. The "*student courts*, the associated *student superior court* and those established by the associated *student legislature* as lesser *courts* to the associated *student superior court*, may act on such internal disciplinary problems as they feel competent to deal with effectively" (p. 8).

The initiation of disciplinary procedures begins when any member of the university community files a written complaint against a student or student organization with the *student court* or designated officer. The officer receiving the complaint will review the document to determine if there is sufficient evidence to hear the matter. If there is sufficient evidence, the officer notifies the charged student(s) of an initial conference and the charges against them. During this conference, the disciplinary officer reviews the charges with the student(s), provides the student conduct code for review, and reviews the disciplinary procedures.

The charged student must decide within 24 hours from the end of the conference which hearing body s/he wants to hear the case. If the student chooses a hearing with the disciplinary officer, the officer will consider the information provided and can "terminate the complaint, *exonerating* the student" (p. 9), dismiss the charge after providing appropriate guidance, refer the student to the mental health review board, impose any number of minor sanctions, or refer the case to the disciplinary committee if a major sanction is deemed appropriate. If the student

chooses a hearing with the disciplinary committee, the committee will consider the information and can impose any sanction deemed appropriate.

The hearing is an informal process that assures procedural fundamental fairness. All hearings are closed and all proceedings and *testimony* are tape-recorded or a written record is kept. The complainant and accused student are allowed to have an advisor present during the hearing. If the case takes place before the disciplinary committee, the parties involved can present witnesses who may be cross-examined by the committee. All questions for witnesses are submitted to and asked by the committee. All evidence is presented at the discretion of the chairperson.

The hearing officer or committee chairperson, who has final decision authority, controls the hearing. Only information presented in the hearing is used to determine if, by sufficient evidence, the student is “*guilty* of violating any of the written list of charges” (p. 11). Sufficient evidence is determined by a *preponderance of the evidence*.

For the purposes for this code, the phrase, “*preponderance of the evidence*,” means that it is more likely that the student charged violated the student code by engaging in the conduct or which he/she is charged than that he/she did not...the committee is not bound by the rules of evidence observed by courts and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. (p. 12)

Current and past conduct can be taken into consideration when determining sanction options. Sanctioning decisions cannot be based upon the accused student’s failure to answer to the charges or appear at the hearing.

Either the Disciplinary Committee or the University President can hear appeals. If the accused student wants to appeal the sanctions or decision of the disciplinary officer or judicial

body other than the Disciplinary Committee, then a written appeal must be submitted to the Disciplinary Committee within five days of sanctioning. The appeal committee considers only the written record and the appeal request and can affirm, reverse, remand, or modify the sanctions. If the student wants to appeal the sanctions or decision of the disciplinary committee, then a written appeal must be submitted to the University President within five days of sanctioning. The President considers only the written record and the appeal request and can affirm, reverse, remand, or modify the sanctions. All appeals decisions are final.

If deemed necessary, the President or his/her designee may invoke an interim suspension for any student who is believed to be an immediate threat to him/herself or the community. An appeal can be made to the Dean of Students within 10 days of the imposed interim suspension.

The final section of the judicial procedures is a list of student rights. Students are afforded a fair and impartial hearing, notice of the charges, the ability to remain silent to avoid *self-incrimination*, seven calendar days to prepare for a hearing, to know who brought the complaint, the right to speak on their own behalf, to have an advisor, to have one appeal, and to only be charged once for the same offense. Additionally, a student has the right to bring witnesses, review case information prior to the hearing, hear the *testimony* of all witnesses, present questions to be asked of all witnesses, and have a recorded hearing. Finally, the accuser has the burden of proof in each case. “This burden shall be carried if *guilt* is indicated by a fair *preponderance of the evidence* when considered as a whole” (p. 15).

The judicial procedures are overall non-legalistic yet have several legalistic words and one legalistic phrase. First, the student hearing body is called the *student courts*. Second, in addressing the authority of the disciplinary hearing officer, the officer meets with a student and explains the possible *penalties* under the student code. In addition, during a hearing before the

disciplinary officer, the officer can terminate the complaint and therefore *exonerate* the student of all charges. Third, witnesses in a hearing present *testimony*. Further, only matters presented in the hearing can be considered in determining whether there is sufficient cause to believe the student “is *guilty* of violating any of the written list of charges” (p. 11). Each of these words is legalistic and is reflective of terms used in a court of law. The use of these words could cause confusion about the formality of a judicial hearing and that a college hearing is distinct from a court trial.

Likewise, one phrase is used that could cause confusion between the college hearing and a court of law. The burden of proof standard is a *preponderance of the evidence*. However, in this document “*preponderance of the evidence*” means “it is more likely that the student charged violated the student code by engaging in the conduct or which he/she is charged than that he/she did not” (p. 12). “*Preponderance of the evidence*” is a legalistic phrase; however, “more likely than not” is a non-legalistic phrase. This sentence about the burden of proof can cause confusion to students, administrators, the general public, and the courts. It is not clear that the burden of proof required to find that a student has violated the student conduct code is either legalistic or non-legalistic in nature.

Document Classification.

This student conduct code, overall, is written in non-legalistic language. The preamble and conduct codes are completely non-legalistic. The judicial procedures contain several legalistic words (*student courts, penalties, exonerate, self-incrimination, testimony, and guilty*) and one legalistic phrase (*preponderance of the evidence*). For these reasons, this document is overall non-legalistic with legalistic words and a legalistic phrase (N-L L).

Pub3

Pub3 is a northeastern, Master's Colleges and Universities II institution with a medium size full-time student enrollment. Pub3's student conduct code is a 19-page document. The overall document is formatted with headings, subheadings and points in each. The page layout is two columns of text per page. The document addresses only social regulations.

Preamble.

The document begins with a list of definitions used throughout the document. This list includes terms such as policy, member of the college community, college premises, administrative hearing board members, and judicial advisor. An example would be:

The College Judiciary is composed of qualified College community members who are appointed by the President and are authorized to hear the case, review the appeal, or otherwise resolve matters of student misconduct. Members of the College Judiciary may be called on to serve in several different capacities. (p. 76)

The preamble continues with a general statement on student misconduct. This statement sets institutional expectations of students to be adults and act responsibly as well as being considerate of others in the community. This general statement also gives the college jurisdiction over conduct occurring on campus as conduct occurring off campus that negatively impacts the college community. Additionally, the statement discusses the philosophy of the judicial system as one where all members of the community must be committed to self-governance. Further, the college judicial system is established to be distinctly separate from a court of law.

The College Judicial System is not a court of law; the rules of evidence do not apply. Hearings are designed to be educational and corrective rather than punitive. Students who demonstrate behavior that is found to be in violation of the College Judicial Code are

found to be ‘responsible’ rather than ‘guilty,’ and are given sanctions that are intended to assist in their development as responsible members of the College community (p. 77).

The last section of the preamble establishes judicial authority in the Vice President for Student Affairs. This authority is designated to other staff members and hearing boards according to the type of case.

The preamble section is written, overall, in non-legalistic language and sets the behavioral expectations of each student. The one exception to the non-legalistic language of the preamble occurs in the philosophy of the judicial system. Specifically, community members are “expected to report student misconduct and willingly *testify* as witnesses if called to a judicial hearing” (p. 77). *Testify* is a legalistic word and therefore, could cause confusion about the atmosphere and formality in judicial hearings.

Conduct Codes.

The conduct codes outline the behavioral expectations the institution has for all students. However, the list of conduct codes was described as illustrative and not exhaustive. The conduct codes were subdivided into 14 categories of violations:

1. General (failure to comply with the reasonable directions of law enforcement officers or fire department personnel acting in the performance of their duties (p. 78))
2. Residential (violation of strict quiet hours (p. 79))
3. Alcohol (underage consumption of alcohol (p. 79))
4. Controlled substance (possession and/or use of controlled substance paraphernalia (p. 79))
5. Gambling (engaging in illegal gambling (p. 79))

6. Key, combination, and card access (propping of any internal or external door of a college owned or operated facility (p. 79))
7. Fire safety (tampering with fire prevention fire safety, or fire fighting equipment (p. 79))
8. Personal injury (threats – statements or action that causes an individual(s) to fear for his/her safety (p. 80))
9. Theft and damage (attempted or actual damage to College, individual, or group property (p. 80))
10. Dining commons (violations of the conditions of the meal contract (p. 80))
11. College community (tampering with the election of any College recognized student organization (p. 80))
12. Recognized student organization (misuse of organization's funds (p. 81))
13. Technology and telecommunications (altering the telecommunications voicemail system (p. 81))
14. Judicial hearing (failure to comply with the sanction(s) imposed under the College Judicial Code (p. 80)).

The last two sections of the conduct codes address student off-campus misconduct and violations of both the law and college disciplinary codes. First, the institution reserves the right to address misconduct that affects student either through off-campus housing or actions occurring in the general community that impacts the health and/or safety of the college community regardless if civil or criminal actions are being taken. Second, the institution may choose to discipline a student's on- or off-campus misconduct that constitutes a violation of federal, state, or local law. College disciplinary proceedings can occur before, during, or after

civil or criminal proceedings. Finally, the institution establishes a cooperative relationship between itself and law enforcement agencies.

The conduct codes section is written in non-legalistic language and outlines unacceptable student behavior. Additionally, students are notified of judicial jurisdiction and administrative cooperative relationships.

Judicial Procedures.

The judicial procedures section of the conduct code details the charges and hearings, sanctions, release of judicial information, and appeals procedures. Additionally, types of disciplinary records are described and interpretation and revision procedures are summarized.

Any community member can file a written complaint of an alleged violation within 15 days of the action or knowing of the incident and identity of the student. Once submitted, a written complaint is reviewed to determine if the complaint has merit and if it does, then a decision is made concerning how the matter will be resolved. The institution has five ways to address alleged student misconduct. First, an educational conference can be held between the student(s) and the hearing officer. An educational conference usually addresses the first, minor violation and results as a written citing of the meeting but no sanctions are imposed. Second, an educational letter can be sent for the first, minor violation detailing the case information and imposing a sanction. If a student(s) do not respond to the letter it is assumed that the matter is resolved. However, the student may respond to request a hearing and dispute the charges.

Mediation is the third method of addressing alleged student misconduct. Both parties must agree to meet with the judicial officer and participate in the mediation process. If the mediation is unsuccessful, the matter will be resolved in a hearing. Informal hearings are the fourth way to address student misconduct. It is used when a student accepts responsibility for

his/her actions and accepts the sanctions imposed while waiving the right to appeal the outcome of the hearing.

Finally, a formal hearing can be held to address alleged misconduct. Formal hearing information is provided in a written letter to the student and includes the case information, the charges, the date and time of the hearing, and a list of witnesses who may be present. The hearing is scheduled between two and 15 days from student notification. An administrative hearing is held for violations resulting in serious sanctions such as suspension or dismissal from the College.

The hearing process is the same for both administrative hearing officers and administrative hearing boards. The hearing begins with the charged student(s) accepting or not accepting responsibility for the alleged misconduct. A description of the incident follows as well as questioning by the hearing body and accused student. All witnesses are presented and questions are asked to clarify comments. College officials can “present evidence or *testimony* on behalf of an unidentified witness when there is good cause to believe that the health, safety, or well-being of this individual would be in jeopardy...” (p. 85). All pertinent evidence is accepted. The accused student and the complainant are permitted to make summary statements. After all summary statements are made the hearing officer or board adjourns for closed deliberations. A majority vote is taken to determine if the violation was committed based on “*a preponderance of the evidence* presented at the hearing, it is more likely than not that the accused student has committed the violation(s) as charged” (p. 85). Sanctions are imposed if appropriate and the accused student is notified of the hearing outcome within 15 days of the hearing.

All hearings are private. Only college officials are permitted to make transcriptions or tape recordings of the proceedings. All persons involved in the formal hearing have the right to

be assisted by an advisor. Accused students cannot be found responsible for a violation solely based on their failure to attend the hearing. Additionally, “a decision by the accused student(s) to remain silent on the charge(s), or give no personal *testimony*, shall not be regarded as an admission of responsibility” (p. 86).

Eleven possible sanctions are described to reflect the range of possible sanctioning options a hearing officer or board has available to impose for any particular case. These sanctions are: official reprimand (a documented warning), educational sanctions (specific projects intended to teach a student why their actions were not acceptable), restitution, loss of privileges, disciplinary probation, threat of disciplinary suspension (the failure of a student to comply with a prior sanction or a behavioral contract), loss of college housing, disciplinary suspension, disciplinary dismissal (final separation from the college), and deactivation of a student organization. Additionally, the administrative officer can place a student on interim suspension prior to a hearing if deemed appropriate in the case.

The next section of procedures addresses the release of student information. The institution addresses its responsibilities and the limitations on releasing student information based on the Family Educational Rights and Privacy Act (FERPA). Furthermore, information on students found responsible for violent crimes (Higher Education Amendments of 1998) is reported to the public after the appeal process has been exhausted.

Either the accused student or the complainant can make an appeal in writing to the Appeals Board within five days of the hearing. Appeals can be based on a fair hearing, whether the facts of the case were sufficient to establish that a violation of the College Judicial Code occurred and, based on a *preponderance of the evidence* presented at the hearing the accused student(s) or student organization more likely than not committed the violation(s), appropriate

sanctions were imposed, and/or new, sufficient evidence is available to alter the decision or outcome. All appeal decisions are final and written notification of the appeal outcome is given within 15 days of the appeal review.

Written disciplinary records are kept and maintained for five years after a student ends his/her relationship with the institution. The student, campus officials with legitimate interest and authorities with a court officers have access to a student's record. Tape-recorded disciplinary records are property of the institution and are destroyed after an appeal has occurred or an appeal deadline has passed. Final interpretation of the judicial code rests upon the Dispute Resolution Coordinator subject to review by the Vice President for Student Affairs. The judicial code is reviewed every three years. The college community must have adequate notice of changes to the judicial code.

The judicial procedures are overall non-legalistic. However, twice a word, *testimony*, and then a phrase, *preponderance of the evidence*, are used and both are legalistic. First, witness statements are referred to as *testimony* during the description of the hearing procedures. Second, an appeal can be based on “whether the facts of the case were sufficient to establish that a violation of the College Judicial Code occurred and, based on a *preponderance of the evidence* presented at the hearing the accused student(s) or student organization more likely than not committed the violation(s)” (p. 85, 89). *Preponderance of the evidence* is a legalistic phrase; however, “more likely than not” is a non-legalistic phrase. This sentence about the burden of proof can cause confusion to students, administrators, the general public, and the courts. It is not clear that the burden of proof is either legalistic or non-legalistic in nature.

Document Classification.

This student conduct code document for Pub3 is non-legalistic overall. The entire document, except for three specific cases, is written in non-legalistic language. The preamble has one item that is legalistic because *testify* is a legalistic word and therefore, could cause confusion about the atmosphere and formality in judicial hearings. The conduct codes are completely non-legalistic. The judicial procedures have two items that are legalistic in nature. The word *testimony* and the phrase *preponderance of the evidence* are used several times in the procedures section. Therefore, this document is overall non-legalistic with legalistic words (N-L L).

Pub4

Pub4 is a northeastern, Master's Colleges and Universities I institution with a medium size full-time student enrollment. Pub4's student conduct code is a 10-page document. The overall document is formatted where headings categorize the information and the information is in numbered points. This document addresses only social regulations.

Preamble.

The preamble begins by explaining that the institution is an academic community of which members freely associate themselves and therefore commit to the college philosophy. An academic community

requires some rules in the interest of maintaining order and guaranteeing the broadest range of freedom to each member of it. These rules reasonably limit some activities and certain behavior, which is harmful to the special purpose of an academic community.

(p. 55)

The College Discipline Board composed of students, faculty and staff addresses alleged student misconduct through fair and prompt hearings. Yet, any misconduct that that violates

federal, state, and local laws may require a student to face actions by law enforcement officials. Off-campus behavior impacting the community may cause college disciplinary actions as well as actions by law enforcement.

The preamble is completely non-legalistic. No legalistic language is used in this section. Furthermore, the principles and values of the College are addressed in a non-legalistic manner.

Judicial Procedures.

The judicial procedures follow the preamble. The first set of procedures discussed are procedures of jurisdiction. The College Discipline Board has jurisdiction over all student conduct cases and appeals. The College Discipline Board also “has the *right of certiorari* [a common law written demand for the record in a particular case] and certification” (p. 55).

The second section of procedures details the notice of charges, scheduling and notice of a hearing. Any person may file a charge to the Discipline Board. The charged student is notified in writing of the charge, the case information, and possible sanctions. Additionally, the charged student is notified of the date, time and place for the case hearing at least five school days prior to the hearing. The availability of information is addressed in the third procedures section. The student accused of misconduct, the accusing party, and board members may request available case information, from the Board Chairperson, that will be presented in the hearing.

Next the procedures followed during a hearing are outlined. Hearings are private with only involved parties and the board in attendance. Members of the Board may remove themselves to ensure a fair hearing. Formal court rules of evidence are not followed. The hearing is tape recorded at the college’s expense. All parties have the opportunity to be confronted by witnesses or a witness’ written statements. “No witness shall be permitted to *testify* unless prior to his/her *testimony* he/she agrees to submit to cross examination” (p. 56). The hearing begins

with the accuser and the accused presenting evidence and witnesses. Next, *rebuttals* to the evidence are heard and *closing arguments* are made (p. 57). The accused student is entitled to be present during the entire hearing however, a student “may elect not to *testify* or not to appear, but failure to *testify* and/or appear implies acceptance of the decision of the Board” (p. 57). The accused student may have an advisor present during the hearing but the advisor may not speak in the hearing.

The fifth section of the judicial procedures discusses actions taken if a person during a hearing *is in contempt*. Specifically,

any person who in the presence of the Board during a hearing exhibits contemptuous, boisterous, disorderly or violent conduct, tending to impair or to interrupt the due course of a hearing, may be held in *contempt*, sanctions therefore, and/or ejected from the hearing with the aid of campus police. (p. 57)

If the Board Chair determines that a person in the hearing is in *contempt*, a closed executive session of the Board is immediately held where a decision is made as to the Chair’s decision of *contempt*, and if upheld, what sanctions are to be imposed on the person in *contempt*.

All decisions of the Board require a majority vote of a quorum of members. Decisions are based on the information presented in the hearing. A written copy of the decision is sent to the accused student and other interested parties. The Discipline Board has eight sanctions options. These options include a warning, censure (a written admonition), restriction (exclusion from participating in specified activities), social probation, academic probation, suspension, expulsion, and restitution.

Appeals are made in writing within five school days of receiving notification of the Board’s decision. An appeal must be based on new evidence not available before the hearing,

due process violations, and/or undue hardship caused by the decision. The Appeals Board can accept the original decision, return the case for a rehearing, order a formal hearing, reverse the original decision and dismiss the case, or accept the decision but modify the sanction(s) imposed.

The final section of the judicial procedures is additional rules and information on the Family Educational Rights and Privacy Act of 1974. The additional rules detail the review and amendment of procedures by the Board at any time. Additionally, Robert's Rules of Order serve as the hearing procedural manual for situations arising that are not specifically addressed in the student conduct code. Lastly, FERPA is described including student rights afforded by the Act as well as the responsibilities and requirements of the institution.

The judicial procedures section contains both legalistic and non-legalistic subsections. In particular, there are four legalistic items: *right of certiorari*, *witness and accused student testimony*, *the hearing process*, and *contempt*. The *right of certiorari* is a legalistic phrase because *certiorari* is a common law written demand from a higher court to a lower court for the record in a particular case. *Testify* and *testimony* are legalistic words and therefore, could cause confusion about the atmosphere and formality in judicial hearings. The hearing process is legalistic because *rebuttal* and *closing arguments* are reflective of procedures in a court of law and could cause confusion about the process in a judicial hearing being distinct from the process in a court trial. Finally, being in *contempt* of a hearing mirrors being in *contempt* of court during a court trial allowing for possible confusion between college hearings and court trials.

Conduct Codes.

General principles of student conduct are established prior to the listing of misconduct violations and the correlating sanction for that violation. The overarching principle is that “all members of the campus community share a responsibility for maintaining and enhancing an

environment where the actions of all are guided by mutual respect, high standards of integrity, and reason” (p. 61). Student conduct guidelines maintain an environment conducive for student development. A violation of the guidelines is adjudicated through a fair hearing. Any student with questions about or a grievance of judicial guidelines can receive clarification from a staff member, the Director of Judicial Services, the Vice President or the President of the College.

The conduct codes are listed in definition format. First, the violation is named and then violation is described. Following each violation description is a statement of the possible sanction(s) associated with that violation. An example would be:

Expressions of Opinions – All members of the college community are encouraged to express their opinions. It is expected that such expressions, including debate, picketing, or demonstration, will respect the rights of others. Willful obstruction of college activities (e.g., classes, lectures, meetings or the work of an office), or threats to the safety of person or property are cause for disciplinary action. A *judgment of guilty* subjects the student to sanctions up to and including expulsion. (p. 61)

Honesty, expressions of opinions, lawful activity, patterns of behavior, dangerous or deadly weapons or devices, and gambling violations have sanctioning statements of “a judgment of *guilty* subjects the student to sanctions...” or “students found *guilty* of ...” (p. 61-62). These violations are institutionally defined yet each violation has a sanctioning statement that is legalistic in nature because students are found *guilty* of the violation. This format can be confusing to students who are reading non-legalistic, institutionally defined violations yet a student can be found *guilty* of a violation.

Compliance with lawful authority, motor vehicle, animals, financial obligations, alcohol and drug policy, residence hall visitation, escort and overnight guest violations have sanctioning

statements such as “failure to comply with the instructions of an officer of the College subjects the student to disciplinary sanctions up to and including expulsion” (p. 62). These violations are institutionally defined and each violation has a sanctioning statement that is non-legalistic in nature.

Therefore, the conduct codes section is non-legalistic with legalistic words or phrases. The general principles of student conduct as well as the conduct codes are written in non-legalistic language. However, half of the conduct codes have sanctioning statements that are legalistic in nature. A student may be confused about the nature of the conduct codes, which have non-legalistic violations with legalistic sanctions statement.

Document Classification.

Approximately 75 percent of this student conduct code is written in non-legalistic language. The preamble is completely non-legalistic. However, several specific sections of the document in the judicial procedures and the conduct codes are legalistic. In the judicial procedures there are two legalistic words/phrases (*right of certiorari* and *testimony*) and two legalistic procedures (the hearing process of *rebuttals* and *closing arguments* along with *contempt* procedures). The conduct codes section has sanctioning statements that are legalistic. For these reasons, this document is overall non-legalistic with legalistic sections, statements and words (N-L L).

Pub5

Pub5 is a southwestern, Master’s Colleges and Universities I institution with a large full-time student enrollment. Pub5’s student conduct code is a 14-page document. The overall document is formatted in multiple sections. The document addresses both social and academic regulations.

Preamble.

The preamble has four sections: introduction, definitions, application, and miscellaneous information. The introduction states that students are campus and community citizens who must follow all campus rules and regulation as well as federal, state and local laws. Students are obligated to act in ways that are compatible with the educational mission of the institution. Any conduct hindering the use of the University facilities “may be *punished*” (p. 1) regardless if the conduct is explicitly proscribed in the conduct code.

The definitions section lists and institutionally defines terms used throughout the document. For example, “hearing officer means a person appointed by the President to hear disciplinary charges, make findings of fact and, upon a finding of *guilt*, impose an appropriate sanction(s)” (p. 1). This list includes other terms such as complaint, Vice President, faculty member, student, and weekday.

The application section states that the student code of conduct applies to all enrolled students, relates the standards expected of each students, and outlines the actions taken when possible misconduct occurs. The application section also states that

a student may be *punished* by the University for conduct that is proscribed by the University even though the student may be *punished* by local, state or federal authorities for the same conduct, but the *penalties* imposed by the University shall not be used merely to duplicate *penalties* imposed by local, state or federal authorities. (p. 2)

The miscellaneous information section explains that the computation of time required in judicial processes does not include the day an event occurs. Additionally, service of notice required in judicial processes must be done in writing and delivered directly to the person or to their mailing address appearing in registrar records.

The preamble contains both legalistic and non-legalistic sections and words. Specifically, there are three words in four sections that are legalistic. In the introduction section the word *punished* is used and in the definitions section the word *guilt* is used. Additionally, in the application section students are *punished* and given *penalties* for misconduct by both the institution and law enforcement authorities. All three words are legalistic and could cause confusion about the intent of the judicial process being punitive and court-like rather than educational.

Conduct Codes.

The conduct codes are divided into three sections: expected conduct, specific proscribed conduct and scholastic dishonesty. In the expected conduct section, students are expected to adhere to federal, state and local laws. Moreover, students are expected to adhere to University rules and administrative official directives.

The specific proscribed conduct outlines 27 actions that may cause disciplinary proceedings to be initiated for any student. These actions include such violations as failure to comply with an official; damaging, destroying, or defacing property; use or possession of any intoxicating beverage unless given permission; conduct constituting a violation of federal, state or local law; physical or verbal abuse; unauthorized appearance on campus; and engaging in conduct that is inappropriate for members of an academic institution. All but one violation was institutionally defined in non-legalistic language. The one legalistically defined violation is the use, manufacture, possession, sale, or distribution on the campus of the substances defined and regulated under [state regulation], except as may be allowed by the provisions of such articles. If a student is found *guilty* of the illegal use, possession, or

sale of a drug or narcotic on campus, the minimum *penalty* shall be suspension from the institution for a specified period of time; and/or suspension of rights and privileges. (p. 3)

In addition to the actions that may cause disciplinary proceedings, two directives are listed under the specific proscribed conduct. First, the President and officers of the institution are not permitted to negotiate or attempt to negotiate with disruptive persons; rather they are to use all lawful means to stop all disruptive activities. Second, all individuals must identify themselves, upon request, to any University official.

The final section of the conduct codes addresses scholastic dishonesty which “includes, but is not limited to, cheating, plagiarism, collusion, falsifying academic records and any act designed to give unfair advantage to [t]he student, or the attempt to commit such an act” (p. 4). The section continues by defining and giving examples of actions that would constitute a scholastic dishonesty violation. For example, “‘Plagiarism’ includes, but is not limited to, the appropriation, buying, receiving as a gift or obtaining by any means another’s work and the submission of it as one’s own academic work offered for credit” (p. 5).

The conduct codes, with one exception, are non-legalistic. The one legalistic part of the conduct codes occurs within one violation description: “If a student is found *guilty* of the illegal use, possession, or sale of a drug or narcotic on campus, the minimum *penalty* shall be suspension from the institution for a specified period of time; and/or suspension of rights and privileges” (p. 3). Specifically, the words *guilty* and *penalty* are legalistic and could cause confusion about the intent of the judicial process being punitive and court-like rather than educational.

Judicial Procedures.

The judicial procedures are divided into disciplinary *penalties*, initiation of charges, hearing, disciplinary records, and appeals. There are 13 disciplinary *penalties* that may be imposed on a student who has violated any rule, regulation or administrative order. The 13 *penalties* include actions such as disciplinary warning, suspension or rights and privileges, educational programs, and deferral of penalty. After the list of *penalties* is an explanation of the nature of the *penalty*. An example of this format is:

F. A failing grade means an “F.” This penalty is among those that may be given when a student is found *guilty* of scholastic dishonesty in a course. (p. 6)

Also included in the disciplinary *penalties* section are *penalties* for academic violations. Either the faculty member or a hearing officer can assess academic *penalties*. The four academic *penalties* are a written warning; no credit, or reduced credit for the assignment; retaking or resubmitting the assignment; and a failing grade or reduced final course grade. An academic *penalty* may be imposed if the student fails to appear for the preliminary conference or formal hearing. Additionally, any student with an academic violation may have disciplinary *penalties* imposed.

The initiation of charges begins with an investigation of the case by the Judicial Affairs Coordinator. The investigation can result in dismissal or a *summons* to a preliminary conference where the Coordinator and student discuss the alleged misconduct. After meeting with the Coordinator of Judicial Affairs, a student must decide to proceed through one of two decision-making bodies. First, a student who does not dispute the allegations and waives a formal hearing allows the judicial affairs coordinator to make a decision on the case and receives written notification of the decision. An appeal may only be made on the *penalty* issued. Second, a

student may refute the allegations or refuse to sign a hearing waiver. If this option is taken, the student has a formal hearing with an impartial hearing officer. If a student is determined to be a potential danger during the investigation, the Vice President for Student Affairs or the University President may issue an immediate interim discipline *penalty* until a formal hearing can be scheduled.

The hearing procedures begin with a written notice of hearing sent to the accused student. Accused students and the hearing officer are afforded three rights. The three rights include having a recording of all proceedings, having copies of all documents to be presented in the hearing along with a list of witnesses and a brief summary of their *testimony* as well as “the right to appear, present *testimony* of witnesses and documentary evidence, cross-examine witnesses and be assisted by an advisor of choice” (p. 8).

Either the accused student or the Judicial Coordinator can submit a written application to postpone the hearing to the hearing officer no later than three days before the hearing. If a postponement is granted, then a new hearing is set. Additionally, a student may challenge the hearing officer’s ability to provide a fair, impartial and objective decision. If the challenge is accepted, a new hearing officer is appointed. To provide a fair hearing to all involved parties, the accused student and the Judicial Coordinator are required to provide all documents and other evidence as well as a list of witnesses to the other party at least five days prior to the hearing.

An accused student may request a public hearing. The hearing officer, who is not required to accommodate seating for any specific number of persons during a public hearing, determines the facilities used in the hearing. If a written request for a public hearing is not received, all hearings are held in private and are not open to the public or the news media.

During a hearing, the hearing officer has the power and authority to ensure a fair and impartial hearing as outlined in the Student Code of Conduct. If the hearing officer deems a person disruptive or causing a disturbance, the hearing officer can require the individual to leave the hearing. No camera of any kind or recording and transmittal equipment is permitted in a hearing other than the official hearing recording. No food or drink or outside reading materials are allowed.

The hearing begins with a reading of charges against the accused student, an explanation of each involved party's rights and all questions about the hearing procedures are answered. Next, the evidence is presented and each party can present a *rebuttal*. After each party has presented evidence, the judicial officer recommends a *penalty* and the accused student may respond to the recommendation. The Judicial Officer is charged with the burden of proof in each case "by the greater weight of credible evidence" (p. 10).

All hearing witnesses are required to take an oath before presenting *testimony* in a hearing. "Each witness shall *swear or affirm* that the *testimony* he or she will give will be true. The hearing officer shall administer the required *oath* or affirmation to each *testifying* witness" (p. 11). Additionally, at the request of either party, each witness may be removed from the hearing during other witness *testimony*.

In a judicial hearing, 'evidence' is all the proven or disproved facts presented in the form of witness *testimony*, documents, or objective exhibits. The hearing officer has the final decision regarding the admissibility of any piece of evidence. In judicial hearings, formal rules of evidence do not apply.

All final hearing decisions are made in writing and cite the findings of fact in the case and conclusions on the accused student's responsibility for the charges. If an accused student is found responsible, any disciplinary actions will also be stated in the written hearing decision.

A disciplinary record includes copies of the statement of charges and evidence, notices given to the accused student, all motions or requests, any agreements made between parties, the electronic recording of the hearing proceedings, the evidence presented, and the final decision. This record is separate from a student's academic record and is kept for six years. Additionally, the Coordinator of Judicial Affairs notifies the Assistant Vice President for Student Affairs if a student is assessed a *penalty* of bar against readmission, drop from enrollment, denial of degree or transcript, suspension or expulsion. Any of these *penalties* may be noted on a student's permanent transcript.

The final section of the judicial procedures outlines the appeals process. The accused student may appeal the *penalty* assessed or either the accused student or Judicial Officer may appeal the final hearing decision. A written appeal is given to the Vice President within 14 days of the hearing decision notice. Appeals decisions are based on the hearing record. The appeal decision is made within 30 days and may be further appealed to the President of the University. The President's decision is final. All *penalties* are imposed after a final appeals decision is made.

The judicial procedures section contains several legalistic words and one legalistic section. First, all disciplinary actions imposed are referred to as *penalties* throughout the entire section. Second, a student receives a failing grade when s/he is *found guilty* of scholastic dishonesty. Third, during the hearing process, witnesses take an *oath to swear or affirm* that the *testimony* he or she will give will be true." All other words and sections are non-legalistic. A

student may be confused about the nature of the judicial procedures because legalistic words and a legalistic procedure are used in conjunction with non-legalistic words and procedures.

Document Classification.

Approximately 75 percent of this student conduct code is written in non-legalistic language. The preamble, conduct codes, and judicial procedures all contain legalistic words and phrases. The preamble contains three legalistic words (*punished, guilt, and penalties*). The conduct codes contain one legalistic violation description. Finally, the judicial procedures have two legalistic words (*penalties, guilty*) and one legalistic procedure (*take an oath*). For these reasons, this document is overall non-legalistic with legalistic phrases and words (N-L L).

Private Sample

Five institutions comprised the private sample. All five institutions had a small (less than 5,000) fulltime student enrollment. One institution was Carnegie Classified as Doctoral/Research Universities – Intensive. Two institutions were Carnegie Classified as Master’s Colleges and Universities I. One institution was classified Baccalaureate Colleges - General and one institution was classified as Baccalaureate Colleges – Liberal Arts. Two institutions are located in the south and one institution each is located in the mid-west, the southwest, and the northeast respectively. To ensure the anonymity of institutions in this study all private intuitions have been renamed Pr1-5.

Pr1

Pr1 is a southern, Baccalaureate College - General institution with a small full-time student enrollment. Pr1’s student conduct code is a 13-page document. The document addresses both academic and social regulations.

Preamble.

The preamble establishes that the conduct code sets out behaviors expected by students as individuals and college ambassadors. The conduct code applies to all enrolled students at all times. The codes are “not written with the specificity of a criminal statute” and “should be read broadly and are not designated to define prohibited conduct in exhaustive terms” (p. 1). The institution reserves the right to address on- and off-campus behavior that poses a danger to the campus community. Finally, the institution can impose sanctions as deemed necessary and all conduct code offenses “are cumulative and subject the student to the *penalty* for a second, third, or other offense” (p. 1).

The preamble, overall, is non-legalistic. The institution establishes that the conduct codes address student behavior at the college and are not written like criminal statutes. Additionally, the institution may address inappropriate student behavior that impacts the community regardless of where the action took place. However, offenses are cumulative and increase the *penalty*. The use of this word, which is legalistic, could cause confusion about the formality of a judicial hearing.

Conduct Codes.

The conduct codes section begins with four statement sections concerning student behavior. First is a list of the [State] Code of Laws that apply to the college campus. This list includes 11 actions that are in violation of the state law. For example, “Automobiles – Sleeping In – It shall be unlawful for any person to sleep in any automobile or other motor vehicle on the campus between the hours of 9:00 P.M. and sunrise” as well as “Carrying of Weapons Prohibited – It shall be unlawful for any person on the campus to carry, either concealed or not, any pistol,

dirk, slingshot, metal knuckles, razors, or other deadly weapons used for infliction of injury to person or property” are two of 11 violations found in the code (p. 4).

Next, a statement of police concerning drugs is provided. All state and federal laws pertaining to drugs are enforced at the institution. The institution reserves the right to institute disciplinary proceedings and permanently dismiss any student found to possess, sell, transfer or use drugs on campus irrespective of civil or criminal proceedings. Additionally, any student convicted in a court of law for off-campus drug actions may be permanently terminated from the institution through the appropriate disciplinary proceedings.

The third statement concerns academic dishonesty. Academic dishonesty includes any misconduct such as unauthorized use of eyes, textbook or other aid used to cheat during an examination, test, or classroom exercise as well as any type of plagiarism. In addition, the forging or alteration of an official document is considered academic dishonesty. If an academic violation is suspected, the faculty member makes a written report to the Vice President for Academic Affairs, the Vice President for Student Affairs and the student. In the letter, the faculty member recommends one of three *penalties*: a (a) failing grade, (b) permanent dismissal from the class, or (c) suspension from the institution. If a failing grade or permanent dismissal from the class is recommended, the matter is resolved in a conference between the faculty member, the student and the Vice President for Academic Affairs. However, if suspension is recommended, the Judicial Board hears the case.

Finally, a statement of student rights and freedoms lists five items. First, the institution endorses the principles of academic freedom to teach, learn, speak, write, and publish as well as citizenship freedoms including freedom to peaceful assembly. Second, the institution recognizes the desirability of constructive change and criticism by students, faculty and staff expressed

through the established framework to address necessary revisions of policies and procedures. Next, the institution does not allow for behaviors (threats, intimidation, physical force, etc.) that disrupt the teaching and learning environment. Fourth, the institution supports the principles of free inquiry and expression. However, individuals who use threats, intimidation, or physical force and/or obstruction to force their wills on others will be disciplined through the judicial process. Lastly, the institution is organized through the charter and bylaws and establishes regular channels of communication between all interested constituents.

Following the four statement sections concerning student behavior is a listing of seven code of conduct violations and the sanctions for each violation. These violations include academic dishonesty or misrepresentation; sexual conduct; threats and violence; abusive language, verbal abuse or harassment; residence hall visitation; unauthorized use of university facilities; and undesirable behavior (theft, failure to comply, arson, littering, computer misuse, etc.). An example of these violations is:

VI. Unauthorized use of university facilities –

- A. The unauthorized use of University facilities (including buildings and grounds), property, etc. of the University, its employees, or students.
- B. The use of classrooms for childcare purposes seriously interferes with the principal function of the classroom, which is instruction, and is therefore prohibited. Childcare is also prohibited in the residence halls.
- C. Unauthorized possession, duplication, or transfer of keys to University facilities, including residence hall rooms, permitting unauthorized access to keys by others, and failure to promptly surrender such keys when requested.

Sanctions of Section VI Violations

Up to and including disciplinary suspension for one year. (p. 8)

The conduct codes section includes both legalistic and non-legalistic sections. In particular, there are two legalistic items: the listing of [State] Code of Laws and the use of the words *penalties* or *penalty*. The [State] Code of Laws is a legalistic in nature. Additionally, *penalties* or *penalty* are legalistic words and therefore, could cause confusion about the atmosphere and formality in the discipline process. However, the list of student rights and freedoms is written in non-legalistic language and the list of conduct code violations is comprised of institutionally defined terms.

Judicial Procedures.

The judicial procedures section begins with a listing and explanation of seven possible sanctions associated with each of the conduct code violations. The list of sanctions includes a letter of reprimand, disciplinary probation, restitution, disciplinary suspension, expulsion, conditions/restrictions, and other sanctions imposed instead of or in addition to any of the listed sanctions. For example, restitution is defined as “repayment to the University or to an affected party for damages resulting from a violation of the Student Code of Conduct” (p. 9).

Following the list of sanctions is an outline of the hearing procedure. Any student in violation of the Student Code of Conduct has the matter reviewed under established policies and procedures. “The purpose of campus disciplinary proceedings is to provide an opportunity for any student or group of student charged with violating University regulations to be heard concerning the charges. Formal rules of evidence will not be applied” (p. 10). Any person may submit a written incident report to the student conduct code administration within 24 hours of the incident occurs.

If a student conduct code or University regulation is believed to have been violated, a informal conference with the Vice President of Student Development is conducted to establish the case facts. If possible, the matter will be resolved during this conference and the case is closed. However, if the matter cannot be resolved, the matter is referred to the Judicial Board. If a student does not attend the informal conference, the matter is forward to the Judicial Board.

The Judicial Board is comprised of students, faculty and staff members. This Board conducts hearings and renders decisions and/or recommendations to the Vice President for Student Development. All hearings are tape-recorded or transcribed and kept until all appeals are exhausted. Any student member *found guilty* of a conduct code or criminal offense will be disqualified from the board.

The Judicial Board Chairperson presides over the hearing and takes whatever action is necessary to “ensure an equitable, orderly, and expeditious hearing” (p. 12). The student is informed, in writing, of the reasons for his/her appearance before the hearing board. All parties involved in a case may be present with or without counsel as well as present witnesses. All hearings are closed and confidential. The student may or may not attend the hearing, however, if the student does not appear after adequate notice, the hearing is held in his/her absence. If the complainant does not attend the hearing after adequate notice, the case may be dismissed.

During the hearing, the student may refuse to answer questions that would *incriminate* him/her. Additionally, the student may present questions to the hearing officer to be asked of each witness. No *testimony* is allowed to be presented if the student is absent from the room, unless the student willfully withdraws him/herself from the proceedings. Written *testimony* may be submitted if signed and notarized. Each student has the right to appeal the judicial body decisions. Each student is allowed to appeal to the President, the fact of commission or severity

of the sanction imposed within 48 hours of notification of the hearing decisions. No student may appeal a decision after admitting an act of wrongdoing or violation.

Finally, the judicial procedures section includes several procedural explanations. First, the Vice President for Student Development has the reserved powers to act upon matters requiring immediate action as well as impose interim suspension when evidence shows a student poses a substantial or immediate threat to himself or herself or the campus community. Second, student may be held accountable for both criminal or civil and institution misconduct. University disciplinary proceedings occur irrespective of criminal or civil proceedings.

The judicial procedures section is written, overall, in non-legalistic language. However, there are three instances where legalistic language is used. The words *guilty*, *incriminate* and *testimony* are used during the judicial hearing process. The use of these words could cause confusion about the formality of a judicial hearing.

Document Classification.

This document is both legalistic and non-legalistic. The preamble, overall, is non-legalistic however offenses are cumulative and increase the *penalty* for additional offenses. The conduct codes section includes both legalistic ([State] Code of Laws and *penalties*) and non-legalistic sections. The judicial procedures section is written, overall, in non-legalistic language yet the words *guilty*, *incriminate* and *testimony* are used. For these reasons, this document is both legalistic and non-legalistic (L & N-L).

Pr2

Pr2 is a southwestern, Master's Colleges and Universities I institution with a small full-time student enrollment. Pr2's student conduct code is a five-page document. The overall document is formatted in four sections. The document addresses only social regulations.

Preamble.

The preamble addresses the application, purpose, and jurisdiction of the student conduct code as well as the mission of the student development staff. The student conduct code applies to all enrolled students. Each student is responsible for knowing and following the conduct regulations. By “recognizing the developmental state of most university students” (p. 1) the purpose of the student conduct code is to set “boundaries and establish disciplinary procedures which allow administrators to work with students as they mature and learn” (p. 1).

The mission of the administrators is to “work with students in a redemptive stance for as long as a student shows a willingness to grow and learn” (p. 1). Finally, the institution reserves the right to address on- and off-campus misconduct that affects the institution even if the actions violate local, state or federal laws.

The preamble section is written in non-legalistic language and summarizes the purposes of having a student conduct code that is educational in nature. Additionally, students are notified of the institutions jurisdiction to address both on and off campus behavior.

Conduct Codes.

The student conduct codes address four types of violations: falsification of information, smoking, respect for property, and student expressions. First, students cannot furnish false or misleading information nor attempt to alter official university records. Second, smoking is prohibited in any campus building. Third, damage or theft of property is not permitted. Additionally, students cannot enter into rooms without consent from the owner. All students are charged for any damages.

Fourth, students are permitted to express their opinions through discussions. No disruptive mob actions or demonstrations are allowed. Further “vulgarity, obscene language,

profanity, lewd or indecent acts, lewd posters and/or pictures, alcoholic beverages or empty containers, illegal drugs or any other materials that reflect negatively on the values of the University are not permitted” (p. 2). Additionally, inappropriate clothing is not allowed. Finally, abuse or harassment toward any community member is prohibited.

The conduct codes are written in non-legalistic language. All actions are institutionally defined.

Judicial Procedures.

The judicial procedures outline the case procedure, appeals, and sanctions. All reports of misconduct are made to the Dean of Students who reviews each case. Each alleged student has a conference with the Dean of Students where all process questions are answered, case information is collected and the student has the opportunity to explain the situation. All conversations are recorded. At the end of the meeting, the Dean of Students decides if the case warrants a Student Conduct Committee review. If the case does not warrant a Conduct Committee review, the Dean of Students may take any appropriate action deemed necessary for that case. A student may appeal the Dean of Student’s decision to the Student Conduct Committee. A student may request a committee review rather than a decision by the Dean of Students.

The committee chairperson schedules a Student Conduct Committee review hearing and the student is notified at least 24-hours in advance of the time and location. During a hearing, the student, his/her counsel, his/her parents, and the Dean of Students may be present and participate at the discretion of the student. All hearings are closed to the public and confidential. The Dean of Students and the student may present evidence. Private committee deliberations are conducted at the conclusion of the hearing to determine if disciplinary action is needed. The Dean of Students meets with the student to inform him/her of any actions that are taken.

Students may appeal the action if they feel they received unjust treatment, all facts were not considered, or the action is too severe. All appeals are made to the University President within 48 hours of the action taken by the Student Conduct Committee. The President can uphold the action or make recommendations for consideration.

Five actions can be taken when a student violates University regulations: temporary class suspension, disciplinary warning, disciplinary probation, strict disciplinary probation, and suspension. Each action is listed and is followed by clarifying statements and directives for the student in completing each action and returning to good standing. The following list serves as an illustration:

Temporary Class Suspension

1. Any student who fails to report to the Dean when he/she is notified of a request for a conference may be suspended from classes.
2. Any student who fails to comply with a directive from the Dean may be suspended from classes until the matter is resolved.
3. The Dean of Students may temporarily suspend a student from the University if it is determined that his/her behavior has been injurious or threatening to the student or others, or contrary to University policy. During a temporary suspension, the student receives an unexcused absence from class and loses the right to make up work. The length of the temporary suspension is to be determined by the Dean of Students, his/her designated agent, and/or the appropriate committee. (p.4)

The judicial procedures are written in non-legalistic language. All procedures are educational in nature, students have the right to appeal the action taken by the administrator overseeing the case, and the possible actions taken are institutionally defined.

Document Classification.

This student conduct code is written in non-legalistic language. The preamble, conduct codes, and judicial procedures all contain non-legalistic words, phrases and sections. All the conduct violations and the sanctions are institutionally defined. The judicial hearing is educational in nature. For these reasons, this document is non-legalistic (N-L).

Pr3

Pr3 is a southern, Baccalaureate College – Liberal Arts institution with a small full-time student enrollment. Pr3’s student conduct code is a 20-page document. The document addresses social and academic regulations. The social regulations and process is addressed first and is followed by the academic regulations and process.

Social Preamble.

The social preamble outlines the purpose of the institution and student conduct code, the formality of the judicial process and the institution’s jurisdiction. The college is an educational institution and relies on orderliness and reason to achieve its mission. To ensure campus order and maintaining the integrity of the academic community, the institution has established a code of student conduct. Each student is responsible to conduct him or herself in accordance with the conduct code.

The student judicial system, created by the conduct code, is administrative in nature and is not modeled after the criminal justice system. Specifically,

An administrative system is concerned with fundamental fairness and reasonableness.

The hearings that are a part of this process, both formal and informal, are not “trials” as in the criminal justice system with the accompanying specialized legal terms and practices. For example, entering “pleas” has no place in the administrative hearing. Also,

the standard of proof for finding someone in violation of the Code is “clear and convincing evidence,” a lower standard than that used in criminal proceedings. [The standard of proof used in criminal trials, “beyond a reasonable doubt,” is inappropriate for an administrative hearing.] In addition, the “rules of evidence” governing procedures in criminal cases do not apply in administrative hearings. Fair play and reasonableness are the key elements in an administrative hearing, whose goal is to discover the truth about an allegation and to make an appropriate response. (p. 2)

Additionally, “‘double jeopardy’ is a concept, which applies only in the criminal justice system; it does not apply to a college’s internal student judicial procedures” (p. 2). The code of conduct applies to all students for both on- and off-campus behavior.

The social preamble is written in non-legalistic language. The preamble establishes the educational nature of the institution and the purpose for a student conduct code. Additionally, the student judicial system is clearly delineated from the criminal proceedings in a court of law.

Social Conduct Codes.

The social conduct codes outline 26 conduct violations with the corresponding minimum sanction associated with the violation. These include violations such as conduct resulting in the damage of property, alcohol violations, keeping a firearm, drug violations, failure to comply, making a false statement, stealing, lying or misrepresentation, misuse of a student identification card, or indecent exposure. A specific example would be, “Setting a fire in any College building or on campus or tampering with fire extinguishers, fire alarms, smoke detectors, or batteries. Violators also may be subject to criminal action. Minimum sanction: Suspension” (p. 4).

The social conduct codes are written in non-legalistic language. Each conduct violation is institutionally defined and is listed with the corresponding educational sanction.

Social Judicial Procedures.

The social judicial procedures begin with 10 general regulations. These include regulations such as a student meeting with the judicial officer to review the judicial procedures, student's may not withdrawal and reenroll until a pending charge has been adjudicated, fines are paid to the Dean of Students office, and the complainant is entitled to have an advisor from the college community. Additionally, a student is entitled to a *presumption of innocence* (p. 6). Further, when a student "has been found *guilty* of two violations is charged with another violation, the case shall be heard by the College Judicial Council" (p. 6).

All reports of misconduct by any member of the community are made in writing to the Dean of Students. All cases are resolved by one of three methods: (a) "a student may acknowledge *guilt* to the judicial officer who will then determine an appropriate sanction" (p. 6), (b) heard by the College Judicial Council if suspension or expulsion is a possible sanction, or (c) heard by the Student Judicial Board if any other sanction other than suspension or expulsion is possible. The College Judicial Council is made up of students, faculty and staff. The Student Judicial Board is comprised of five students. One student serves as the chairperson for both the College Judicial Council and the Student Judicial Board.

The chairperson has 12 responsibilities that include such duties as selecting a case investigator, appoint a hearing panel, "see that *testimony* and evidence are presented in an orderly manner," to serve as tie-breaker in case of tie votes, represent the hearing panel at all appeals, and prepare a summary of each hearing. Additionally, the appointed investigator notifies the chairperson if there is insufficient evidence to proceed. If there is enough evidence, the investigator presents all evidence during the hearing and provides all documents in the hearing.

During a hearing the chairperson introduces the participants and administers the *oath of honesty to all persons [who] will give testimony* (p. 8). The investigator reads the charges and the student states whether or not s/he is in violation of the code. The investigator presents all case information and the student has the opportunity to respond. The Board retires to executive session, makes a decision on the case, and then the decision is read to the student along with any appropriate sanctions. The student is notified of the appeals provisions and procedures.

The Judicial Board has 12 sanctioning options. These options include reprimand, extracurricular probation, fines, work hours, restriction, suspension, expulsion, educational workshop, or a recommendation for social probation, group conduct probation, and/or remove recognition by the college. Each sanctioning option includes a definition or description. As an example, restitution is defined as “reimbursement in money for damage to or destruction of property. Normally restitution is not considered sufficient *penalty* for willful damage or destruction of property” (p. 9).

Appeals must be filed in writing to the Dean of Students within three business days after the hearing body decision. Appeals may be based on substantial new evidence, a new witness, or improper hearing procedures. All appeal decisions are final.

All hearings are recorded. If a student is found *not guilty* then all records are destroyed and no notation is made on the student’s permanent record. If the student is found *guilty* then all records are kept in the Dean of Students Office. All records are destroyed after five years.

The social judicial procedures are overall non-legalistic. However four legalistic words, *innocent*, *guilty*, *oath* and *testimony* are used several times throughout this section. The use of these words could cause confusion about the formality of a judicial hearing.

Academic Preamble.

The academic preamble establishes the college as an academic community and therefore, all members must honor the principles of intellectual and academic integrity. Each student is required to sign a Pledge of Academic Integrity upon enrolling and entering the community. The pledge reads,

As a member of the study body of [Institution], I guarantee to my fellow students, the faculty and the administration that I have read and that I will uphold the principles and procedures of the Code of Academic Integrity in all its articles during my residency and will make every effort to discourage violations by others. (p. 11)

Next, the preamble outlines the composition of the Academic Integrity Council. This Council is comprised of student, faculty and staff members. Faculty members are elected by the Faculty and serve a two-year term. The Council elects its student representatives and their term lasts throughout the duration of their enrollment at the institution.

To be eligible to serve, a student must not be on academic or extracurricular probation nor have been *convicted* of any violation of the Code of Academic Integrity. In the event of any *conviction* under the Code of Student Conduct, the Council reserves the right to hold a hearing by which a member of the committee may be removed by a majority vote with at least one faculty member in agreement. (p. 12)

The academic preamble is written, overall, in non-legalistic language. The one exception is that an active Student Council member may be *convicted* of a violation. The term *convicted* is legalistic and could cause confusion about the intent of the judicial process being punitive and court-like rather than educational.

Academic Conduct Codes.

The academic conduct codes are a list of 14 acts that are considered to be in violation of the student conduct code. This list includes such acts as committing plagiarism, knowingly doing work for another person, copying, knowingly permitting another student to copy your work, bringing or using unauthorized materials, gaining access to unauthorized materials (tests, papers, etc.), making a false statement concerning an academic matter, or violating a restriction placed by an instructor. For instance, a student may not “illicitly or maliciously access, alter, copy, use, or damage confidential academic records or materials” (p. 13). These codes apply to student for on-campus as well as off-campus work including work done through cooperative agreements with other institutions.

The academic conduct codes are written in non-legalistic language. All acts constituting violations are institutionally defined.

Academic Judicial Procedures.

The academic judicial procedures are divided into procedures for reporting a violation, investigating a violation, the hearing, imposing *penalties*, and filing an appeal. If a student or faculty member suspects an academic integrity violation, s/he should secure the evidence, talk to the student involved and present the evidence and provide the accused student a chance to explain the situation. If the accusing party believes, after the explanation, a violation has not occurred the matter is dropped. However, if the accusing party believes that a violation did occur, the accuser could (a) counsel the student and warn about repeated offenses, or (b) should report to the instructor or department chair.

When the instructor or department chair “believes that an offense has been committed,” s/he must ask the Dean of the College if the student has “been previously *convicted* of an offense

of the code” (p. 13-14). The Dean of the College will notify the instructor or department chair if the student has “been found *guilty* of a prior offense” (p. 14). If the incident is the student’s second or subsequent offense, then the instructor or chair must report the incident to the Academic Integrity Council. However, if the incident is the student’s first offense, the instructor or chair may handle the situation him/herself or refer the matter to the Academic Integrity Council. When an instructor addresses the matter him/herself, then s/he must inform the student that s/he can request that the matter go to the Academic Integrity Council or be addressed with the instructor.

If the student chooses to have the matter resolved with the instructor, the instructor must inform the student of “the range of *penalties*” s/he could impose and “is obligated to reveal the intended *penalty* since s/he might not be making the final judgment of *penalty*” (p. 14). When a student chooses to have the case decided by the instructor, the student must acknowledge in writing his/her choice to have the instructor resolve the matter and waive the right to a hearing by the Academic Integrity Council. This declaration is not “considered an admission of *guilt*” (p. 14). If the instructor decides on a *verdict of guilty*, the instructor can impose one of the following sanctions: (a) reprimand, (b) require the work to be redone or a suitable substitute to be completed, (c) require some form of compensation, (d) award a reduced grade or an “F” or “Zero” on the assignment, or (e) award a grade of “F” in the course (p. 14).

When a case is referred to the Academic Integrity Council, the chairperson will first initiate the investigation process. The chairperson will also schedule a hearing and notify each party involved within seven days of receiving the notice of a violation. A hearing coordinator is appointed to obtain all evidence, provide case documents to the chairperson, serve as a facilitator to the accused and the observer, and act as a resource during the hearing. The accused is to write

a response to the case, a list of witnesses, as well as any evidence and give all information to the hearing coordinator within 24 hours prior to the hearing.

The chairperson presides during the hearing and ensures order and decorum is kept throughout. The hearing is recorded. If the student is not present for the hearing, the hearing may proceed without the student. The chair reads the following statements,

The purpose of this hearing is to permit the members of the Council to make a fair and informed judgment on the matter presently before us. This is an administrative hearing and formal rules of evidence and jurisprudence do not apply. Unlike a court of law, it is not an adversarial process. All questions and comments from those appearing before the Council should be directed to the presiding Officer of the Council and not to those appearing before it.

The accused may be asked to *testify* by the Presiding Officer on matters that could involve *self-incrimination* and an adverse inference may be drawn from a failure to so *testify*. A student's previous conduct at the College is admissible.

Any act or conduct which shows disrespect for the dignity and authority of the Council during the hearing, or that obstructs, tends to obstruct, interrupt, prevent, or embarrass the proceedings or the prior investigations or the administration of justice shall constitute *contempt* of the Council. False *testimony* of a person in a hearing shall also constitute *contempt* of the Council. Any member of the Council may bring a *contempt* charge before the Council, in accordance with the current By-Laws of the Council. Charges brought during the hearing may be decided at that hearing. (p. 16)

Next, the participants are introduced and statements are made concerning the incident. All witnesses “may be sequestered until their *testimony* is required” (p. 16). All questions are

asked by the council and must be “appropriate to the discovery of *guilt* or *innocence*” (p. 17).

After all *testimony* has been received, the Chair closes the hearing and the Council begins closed deliberations. During the deliberations, the Council makes a “determination of *guilt*” (p. 17). If a student is found *not guilty*, all records are destroyed and all parties are notified and advised to proceed on the “assumption of *innocence*” (p. 17). If the student is “found *guilty*, the Council will proceed immediately to the *penalty* phase” (p. 17). “The judgment and *penalty* phases must be kept separate and distinct. No discussion of *penalties* is to be permitted before a finding of *guilty* or *innocence* is made” (p. 17).

The Council may ask the instructor to suggest an appropriate *penalty*, however, this is only a suggestion and non-binding. The Council may impose nine *penalties*: expulsion, suspension, failure in the course, reduced grade in the course, failure in the work involved, extra work or community service, substitute assignments, letter of apology, and/or letter of reprimand. All parties are notified within three working days of the Council’s decisions.

If a student is found *guilty*, s/he may appeal the decision of “*guilty*” only and not the *penalty* imposed (p. 18). An “intention to appeal by a *convicted* student” must be submitted in writing within three working days to the Dean of Students after the “announcement of the *verdict*” by the Council (p. 18). The Appeals Board will convene to hear the appeal and its decision is final.

When a student is found *not guilty*, all records and minutes are immediately destroyed. If a student is found *guilty*, all records and minutes are kept in the Dean of Students office. All files are destroyed after five years. If a student is suspended or expelled, a notation is placed on his/her permanent record.

The academic judicial procedures are written in both legalistic and non-legalistic

language. The vast majority of the judicial procedures are written in non-legalistic language, yet legalistic words are used throughout this section. The legalistic language used includes *offense has been committed, convicted of an offense, guilty, penalty/penalties, admission of guilt, verdict of guilt, testimony/testify, contempt, innocence, and not guilty*. These terms could cause confusion about the intent of the judicial process being punitive and court-like rather than educational in nature since the “purpose of the hearing is to permit the members of the Council to make a fair and informed judgment on the matter presently before them. Hearings are administrative and formal rules of evidence and jurisprudence do not apply. Unlike a court of law, it is not an adversarial process” (p. 16).

Document Classification.

The social preamble and conduct codes as well as the academic conduct codes are written in non-legalistic language. The social judicial procedures and the academic preamble and judicial procedures are overall non-legalistic yet many legalistic words are used. Therefore, this student conduct code document has non-legalistic language with legalistic words and phrases (N-L L).

Pr4

Pr4 is a northeastern, Master’s Colleges and Universities I institution with a small full-time student enrollment. Pr4’s student conduct code is an eight-page document. The overall document is formatted in four sections. The document addresses academic and social regulations.

Preamble.

The preamble addresses the purpose, application and jurisdiction of the student conduct code. The conduct codes “ensure an environment conducive to academic success and holistic personal growth” (p. 55). The institution seeks to teach students about their rights and responsibilities as well as behavioral guidelines to ensure a respect for all students and the

educational mission of the institution. “[Institution] strives to hold students accountable for behavior and reward/sanction behaviors in accord with the guidelines” (p. 55).

The conduct codes apply to all enrolled students and recognized student groups. Each student enters the University in good standing. The conduct code is applied to both on- and off-campus behavior by students or related property. Additionally, immediate suspension can be imposed on a student for any action which violates the conduct codes and results in danger or harm to the community. For student conduct code violations, which are also civil offenses, the institution reserves the right to address the student misconduct regardless of civil proceedings.

The preamble is written in non-legalistic language. The purpose of the conduct code is educational in nature and applies to all students equally.

Conduct Codes.

The student conduct codes are divided into three types: academic, social standards and campus environment, and policy administration. Academic violations include plagiarism, inappropriate use of sources, cheating, theft of exams or library resumes, and falsifying records. All academic violations are referred to the Dean of the College in which the student is enrolled. The Dean decides on the appropriate action for the violation.

There are 20 social standards and campus environment violations. The violations are deemed to be inconsistent with responsible student behavior and are not exhaustive but representative. These violations include actions such as violation of alcohol guidelines or residence hall visitation guidelines, threat, use or possession of firearms or fireworks, assault, vandalism or damage to property, forgery, and other violations as determined by the hearing officer. In addition, there are five policy administration violations. These violations include failure to comply or complete an imposed sanction, repeat violations, interference with an

investigation, failure to release pertinent data about a violation and assisting in or being aware of a violation without reporting.

The conduct codes are written in non-legalistic language. All violations are institutionally defined.

Judicial Procedures.

The judicial procedures section outlines the judicial process, the hearing procedures, a list of possible sanctions, procedural guarantees and the appeals process. All members of the college community are expected to report any observed behavior that is in violation of the conduct codes. Since most of the violations for this institution occur in residence halls, Resident Assistants (RAs) attempt to educate the student observed to be in violation of the conduct codes and also submit reports to the Residence Director (RD). The RD and the RA may further address the behavior by (a) determining the student has learned and no further action is needed, (b) the RD meeting with the student to discuss the behavior or (c) the student is addressed through the formal judicial system hearing. An RD may sanction a student with a written reprimand, restitution or monetary fine, campus project hours, or disciplinary probation. An immediate sanction of no contact, suspension from the residence hall or from another building may be imposed to relieve tension or provide safety for no more than 48 hours. All immediate sanctions require a formal hearing the following business day.

Violations occurring outside the residence halls reported by either Public Safety or other community members are forwarded to the Conduct Code Officer. For any violation, the institution may involve parents of a student under the age of 23. The Conduct Code Officer investigates all violations and notifies the student of a formal hearing to review the allegations. At the formal hearing, the student may *plead* responsible or not responsible for the alleged

violations. If the student *pleads* responsible, the Conduct Code Officer will have an immediate discussion with the student and determine sanctions at that time or provide written sanctions in a timely manner. If the student *pleads* not responsible, the student can choose to have the hearing with the Conduct Code Officer or the Judicial Board, which is comprised of students, faculty, and staff members. If a Judicial Board hearing is requested, a hearing date is set and is held even if the student does not attend.

A student is notified in writing of the hearing date, time and location and is formally charged with a violation. At the hearing with the Conduct Code Officer, the student acknowledges in writing the judicial system process, enters a *plea* of responsible or not responsible for the listed violations, and the student is provided the opportunity to review the incident report.

All hearings are closed to the public including legal counsel. The student and the accuser are allowed to describe the situation in detail and each may bring witnesses if the Hearing Officer or Chairperson “believe[s] *testimony* to be relevant to the proceedings” (p. 59). Additionally, if a staff member addressed the misconduct (RD, RA, etc.) s/he may be present at the request of the presiding officer. After all relevant information is presented, the Hearing Officer or Judicial Board determines the student’s responsibility or not for each violation and imposes appropriate sanction if needed. The student is notified in writing of all decisions.

The Hearing Officer or Judicial Board may impose one of six sanctions. These include written reprimand, restitution or monetary fine, campus project hours, disciplinary probation, termination of residency, or partial (non-academic) suspension. Additionally, the Judicial Board may fully suspend or expel any student.

All students are provided five procedural guarantees during formal hearings. First, each student is notified in writing of charges and hearing scheduling. Second, no member of the Judicial Board or the Hearing Officer will participate in a case where personal interest exists. Third, no residence hall room or personal property will be searched without proper authorization. Next, any student going before the Judicial Board may have the assistance of one [Institution] community member. Finally, the burden of proof rests on the accuser and he/she must prove the facts “to be more likely so than not so” to have occurred (p. 61).

Each charged student has the right to an appeal. An appeal must be submitted in writing within 24 hours of being given notice of the hearing outcome. An appeal is made to the administrator above the Hearing Officer. If the Judicial Board hears a case, appeals go to the Dean of Students. All appeals decisions are final.

The judicial procedures, with two exceptions, are overall non-legalistic. The two exceptions are that during a hearing the accused student enters *pleas* and witnesses present *testimony*. The use of these words, which are legalistic, could cause confusion about the formality of a judicial hearing.

Document Classification.

This student conduct code is written overall in non-legalistic language. The preamble and conduct codes contain non-legalistic words, phrases and sections. Additionally, the judicial procedures are overall non-legalistic with the exception of two words, *plea* and *testimony*. For these reasons, this document is non-legalistic with legalistic words (N-L L).

Pr5

Pr5 is a mid-west, Master's Colleges and Universities I institution with a small full-time student enrollment. Pr5's student conduct code is a two-page document. The overall document is formatted in four sections. The document addresses only social regulations.

Preamble.

The preamble of the student conduct code is a two-sentence introduction to the college's expectations and standards of conduct. The preamble is written in non-legalistic language.

[Institution] expects its students to act in a mature, responsible and respectful manner.

The College reserves the right to take appropriate steps to preserve the health, safety and well-being of the College community by establishing and enforcing standards of conduct through administrative action. (p. 1)

Conduct Codes.

The conduct codes section outlines seven offenses subject to the code. Each violation can be addressed regardless if the actions took place on campus, at an off-campus educational site, or at a college sponsored event. These offenses include actions such as possession, use, distribution or sale of any controlled substance or illegal drugs; disruption of college activities; and failure to comply with direction from a college official. The following language serves as an example:

Violation of other posted [o]r published regulations of [Institution], including but not limited to those regulations contained in the residence hall contract, those relating to the use of college facilities and services; the use of computer services or network; and the sale or consumption of alcoholic beverages. (p. 1)

The conduct codes section is written in non-legalistic language and all violations are institutionally defined.

Judicial Procedures.

The judicial procedures include sanctions, the judicial process, and appeals. Seven possible sanctions for student misconduct are listed and include a written or oral warning, probation, restitution, educational or service project, loss of privilege, suspension, and expulsion. For example a service project is defined as, “a student may be required to complete a work, educational or service project as a result of an administrative action” (p. 1). Additionally, any student under the influence of drugs or alcohol, while violating student conduct codes, is referred to the appropriate counseling service and law enforcement authorities.

The judicial process is divided into four steps. First, the Vice President for Student Affairs is in charge of the enforcement of the student conduct code and is responsible for investigating any charges. Any member of the community may bring charges against a student to the Vice President for Student Affairs. Second, an administrative hearing is held for all cases except those warranting only a warning. The student is notified of the charges and hearing and the hearing is held within two weeks from the event in question. “This is not a legal hearing” (p. 2). Third, all disciplinary records are kept in the Vice President for Student Affairs’s office and are protected by FERPA. Finally, immediate suspension may be invoked when a student presents a threat of harm.

Students are only permitted to appeal a sanction of suspension or expulsion. This appeal must be made to the Vice President for Academic Affairs within two weeks of sanction notification.

The judicial procedures are written in non-legalistic language. The sanctions are listed and institutionally defined. Additionally, the judicial process including a non-legal hearing and means for appeal are outlined.

Document Classification.

This student conduct code is written in completely non-legalistic language. The preamble, conduct codes, and judicial procedures all contain non-legalistic words, phrases and sections. All the conduct violations and the sanctions are institutionally defined. The judicial hearing is not a legal hearing. For these reasons, this document is non-legalistic (N-L).

Does Type of Language Vary by Institution Type?

The second research question asked if the type of language used in student conduct codes vary by institutional type (private vs. public). All five of the public institutions were classified (N-L L) because each had non-legalistic language overall yet each had legalistic words, phrases, and/ or sections. The five private institutions were classified as either (N-L), (N-L L), or (L & N-L). Two institutions' documents were classified (N-L) because the document had non-legalistic language throughout. Two institution's documents were classified (N-L L) because the documents had non-legalistic language overall yet had legalistic words, phrases, or sections. One institution's document was classified (L & N-L) because the document had both legalistic and non-legalistic language throughout.

The language used in the student conduct codes does not vary greatly among public and private institutions. Eight out of the ten institutions compared for this research question contained either overall non-legalistic language with legalistic words, phrases, and sections or contained both legalistic and non-legalistic sections. Therefore, these institutions are similar in the fact that they all continue to have some legalistic language in the student conduct codes. The exceptions to the use of legalistic language are two private institutions that had documents containing only non-legalistic language.

Small Institutions

Five institutions comprised the sample. All five institutions were private institutions. Four institutions were Carnegie Classified as Master's Colleges and Universities I and one institution was classified as a Baccalaureate College – Liberal Arts. Three institutions are located in the northwest and one institution is located in the south and mid-west respectively. To ensure the anonymity of institutions in this study all small intuitions have been renamed S1-5.

S1

S1 is a northwestern, private Master's College and Universities I institution. S1's student conduct code is a four-page document. The document addresses both social and academic regulations.

Social Preamble.

The social preamble assigns all administrative responsibility for disciplinary action to the student conduct chairperson. Additionally, the chair is responsible for all judicial processes such as convening a discipline committee and keeping confidential files. The preamble is written in non-legalistic language and establishes the student conduct chairperson as the judicial authority.

Social Conduct Codes.

The social conduct codes are divided into guidelines for student conduct and campus rules. Eleven actions such as obstruction of teaching, unauthorized entry, failure to comply, disorderly conduct, and abuse are grounds for disciplinary action. Additionally, there are four general campus rules, which include no smoking in campus buildings, approval required to post flyers, no children in classrooms or laboratories, and appropriate dress required. The social conduct codes are institutionally defined and are written in non-legalistic language.

Social Judicial Procedures.

The social judicial procedures include a description of the Student Conduct Committee, disciplinary hearing procedures, and possible sanctions. The Student Conduct Committee is comprised of one student, faculty, and staff member in addition to the chairperson. Any member of the college community may make allegations of misconduct, in writing, to the chairperson within one week of the incident. The chair may choose to dismiss the case or issue a reprimand. If the case requires further review, the chair notifies the student in writing of the charges and a request to appear in front of the Student Conduct Committee.

The student has the opportunity to present his/her defense. If the student does not appear in front of the committee, it is assumed that the student does not contest the allegations. The Student Conduct Committee recommends appropriate disciplinary action to the chairperson. The chair will review the evidence and findings and confirm or modify the proposed action. The chairperson notifies the student concerning the decision and any sanctioning actions. The student may appeal within then days to the President who can confirm or modify the findings.

Five sanctioning options are available to the chairperson to address student misconduct. These sanctions include reprimand, disciplinary probation, restitution, disciplinary suspension, and/or expulsion. Each of the sanctioning options is listed with a description of the sanction. For example disciplinary suspension is defined as the “exclusion from classes or other privileges for a period not to exceed two years” (p. 58). Additionally, a summary suspension may be imposed to protect the community and/or student from a possible immediate threat.

The social judicial procedures are written in non-legalistic language. The procedures outline actions that could constitute disciplinary action. Each action and possible sanctions are institutionally defined.

Academic Preamble.

The academic preamble establishes that graded assignments are presumed to be the work of the individual student. Additionally, students are responsible for understanding and exercising scholastic honesty standards. The academic preamble is written in non-legalistic language.

Academic Conduct Codes.

Academic violations are any act that “violates the rights of other students or that involves misrepresentation of the actual author of one’s work” (p. 60). These violations include cheating, plagiarism, unauthorized collaboration, submitting the work of another, or give or receive unauthorized assistance or information. The academic conduct codes are written in non-legalistic language.

Academic Judicial Procedures.

When a faculty member suspects a violation of the University scholastic honesty policy has occurred, then s/he consults with the Scholastic Honesty Committee chair and files a violation form with supporting documents if it is determined that the student may have violated the policy. The Scholastic Honesty Committee determines if a violation has occurred. If a student is found to have violated the policy, the Committee may impose a grade of zero and suspend the student from the institution for one quarter. For a second violation, a student may be suspended for one year and expelled on the third violation. The student may appeal within 10 days to the President. The President’s decision is final. The academic judicial procedures are written in non-legalistic language.

Document Classification.

All sections of this student conduct code are written in non-legalistic language; therefore, this document is non-legalistic (N-L).

S2

S2 is a southern, private Baccalaureate College – Liberal Arts institution. S2’s student conduct code is a 14-page document. The document addresses both social and academic regulations.

Social Preamble.

The social preamble sets student behavioral expectations both on campus and the surrounding community. Specifically “students are expected to conduct themselves according to the Judeo-Christian values that reflect the commitment of the College community and to develop the personal character and social attributes that reflect full maturity” (p. 12). Students are also expected to participate fully in educational opportunities outside the classroom for others in the college as well as the civic communities. As enrolled students at the institution, each person is responsible to conduct him or herself in a manner that is reflective of the institution and contribute to the positive living and learning environment. Additionally, the college strives to maintain constructive and harmonious relationships with the residents or the community. The institution will take disciplinary actions against any student who violates the rights of the community or whose behavior jeopardizes the institution’s relationship with the community. The institution’s disciplinary actions are separate from any civil or criminal proceedings. The social preamble is written in non-legalistic language.

Social Conduct Codes.

The social conduct codes are a list of 16 actions that constitute a non-academic offense. These actions include physical violence, disorderly conduct/disruption, trespass, illegal activity, other regulations (college rules, regulations, expectations, etc.), littering, firearms or weapons,

inciting, culpability, dishonest conduct, property damage, failure to comply, unauthorized entry, noise, and improper use of keys. An example of these actions would be:

Hazing, Harassment, or Intimidation. Students are expected to respect the dignity of others. Hazing, harassment (including sexual harassment), or intimidation by students or any member of the College community is prohibited. Such action is defined as the use of physical force or any activity, which might be perceived as jeopardizing the physical, moral, or scholastic well being of any individual. (p. 25).

The social conduct codes are institutionally defined and written in non-legalistic language.

Academic Preamble.

The Honor Code is founded on the principle that all behavior is the responsibility of the individual student. The Honor Code states,

I, as a student and citizen of [Institution], do hereby dedicate myself to the principles of the Honor Code, which pervades all aspects of my life. I resolve to keep myself above reproach and to help my fellow students maintain the ideals of [Institution]. (p. 12)

The Honor Code statement can be interpreted to mean,

The College is dedicated to learning and the advancement of knowledge, as well as to the development of ethically sensitive and responsible persons. In accepting membership in this educational community, the student assumes personal responsibility to abide by the College's academic performance standards and social regulations. The Honor Code also impels the student to accept the social responsibility to challenge and help fellow students who do not behave ethically or responsibly and, when necessary, to ask the College to intervene for the good of the affronting student and the College community. When the

students conduct themselves in accord with the Honor Code, the campus community has the confidence and respect among its members necessary for true learning, free expression and personal development. (p. 12).

Any time a student does not conduct him/herself in accordance with the Honor Code, s/he is subject to disciplinary action. The institution “hopes that each student will be guided by an internalized set of values and principles consistent with the ideals of the College” (p. 12). The academic preamble is written in non-legalistic language.

Academic Conduct Codes.

The academic conduct codes outline actions that would constitute a violation of the Honor Code and suggested methods to verify a violation has occurred.

Anyone who violated the Honor Code by cheating, plagiarizing, copying and receiving credit for another student’s work, or anyone who knowingly participates in the defrauding or deceiving of any faculty member for the purpose of meeting scholastic requirements is *subject to trial* by the College Judicial Council. (p. 12-13)

The academic conduct codes are overall non-legalistic, however, a student suspected of an honor code violation is subject to a *trial*. The term *trial* is legalistic and could cause confusion about the formality of the judicial proceedings and the distinction between college disciplinary actions and a court of law.

Social and Academic Judicial Procedures.

“The judicial and grievance proceedings are not adversarial, nor are they intended to duplicate the formal proceedings of a legal court of law” (p. 20). All disciplinary procedures and determinations are private and only shared with involved parties.

The College takes seriously its commitment to enforce regulations, policies and procedures. Guiding principles in all cases where a student has committed an infraction shall be:

1. The overall philosophy of the College and its primary commitment to education.
2. The expectation is that students will read carefully the published documents of the College and can, therefore, be held accountable for their contents.
3. Students are accountable for both the spirit and the intent of the law.
4. The Judicial Board may recommend specific consequences.
5. Members of the community called as witnesses shall, themselves, be subject to disciplinary action if their *testimony* is later shown to be false. (p. 23)

Any student who suspects an honor code violation has occurred has the duty and privilege to request that the suspected student report his/her infractions of the Honor Code. Additionally, the suspecting student may notify the professor, if present, for the purpose of additional substantiation of the charge. The accuser or the professor may address the charged student and give the student the opportunity to explain the situation. If the explanation of the behavior is adequate, the matter is dropped. However, if the explanation is not adequate, then the charged student is urged to report him/herself and if s/he does not, the accuser submits a form to the Dean of Students.

Any member of the community may file charges against any student for social or academic misconduct. The Dean of Students or Director of Residential Life initiates an investigation and determines if a violation has occurred. The Dean or Director assess charges and notifies the student of all charges and hearing information. The case is then referred to the Judicial Council. However, if the student poses an immediate threat to him/herself or the

community, an administrative disciplinary action may be immediately imposed before a hearing can be scheduled.

The Judicial Council is comprised of students and faculty members. The *Chief Justice* convenes the council, presides over deliberations and ensures dignity in all operations. The Council may issue *subpoenas* compelling students to appear as witnesses to a hearing. The charged student is guaranteed six rights during the resolution of a case including (a) being presented with written notice of charges and hearing information, (b) presenting information in his/her behalf, (c) providing oral and written defense statements, (d) remain silent to avoid *self-incrimination*, (e) decline to appear at the hearing without the absence being interpreted as *guilt*, (f) being presented with the Council's findings in writing within three class days, and (g) file an appeal within 24 hours.

The Dean of Students provides the Council with a charge sheet 15 minutes before the *trial*, which includes (a) the names of the *defendant* and the person bringing the charges, (b) the offense, and (c) the particular rule or regulation allegedly violated. The Council duties are to “decide whether the accused party is *guilty or not guilty* of the charges alleged” and “to establish *penalties* in case of *guilt*” (Appendix I, p. 2). At least four of the five Council members must agree to *return a verdict of guilty*. The *Chief Justice* prepares written copies of the Council's findings and presents them to the *defendant* and the Dean of Students.

The Council may recommend one of six *penalties* to the Dean of Students. These sanctions include fines, conduct or disciplinary probation, suspension, or expulsion. For example, “in cases where the student is *guilty* of severe misconduct, the Council shall have the power to recommend suspension or expulsion from the college” (Appendix I, p. 3). In addition to these *penalties*, the Dean of Students may also impose a reprimand/disciplinary warning,

separation from the institution for a defined amount of time, community service, restitution, revocation of privilege, or a special sanction appropriate to the violation such as professional counseling. Council decisions may be appealed to the Council of Review comprised of the Academic Dean and President within 24 hours of the decision notification.

The judicial procedures section is written in a non-legalistic manner, for example, a guiding principle is the overall philosophy of the College and its primary commitment to education and the judicial and grievance proceedings are not adversarial, nor are they intended to duplicate the formal proceedings of a legal court of law. However, many legalistic words are used through the section such as *testimony*, *subpoenas*, *Chief Justice*, *guilt*, *trial*, *defendant*, *verdict*, and *penalties*. The use of these words can cause confusion about the formality of the college disciplinary procedures as well as the distinct differences between college proceedings and court trials.

Document Classification.

The social and academic preambles as well as the social conduct codes are written in non-legalistic language. The academic conduct codes are overall non-legalistic, however, a student suspected of an honor code violation is subject to a *trial*. Additionally, the judicial procedures are written in a non-legalistic manner with eight legalistic words used throughout. Therefore, this document is non-legalistic with legalistic words (N-L L).

S3

S3 is a northwestern, private Master's Colleges and Universities I institution. S3's student conduct code is a 12-page document. The document addresses both social and academic regulations.

Preamble.

The preamble consists of a statement of the principles of student life and a statement of student's rights and responsibilities. The statement of principles of student life begins with defining the institution as an academic community with the ideals of the pursuit of knowledge, understanding and skills uniting all members in the community. Each community member is obligated to act in a mature and responsible manner as established by the policies, standards and guidelines of the Student Code of Conduct. The conduct code applies to all students enrolled in the university for all on-campus behavior as well as off-campus behavior which adversely affects the institution.

The statement of student rights includes rights such as having a favorable learning environment free from discrimination, freedoms granted by the Constitution, freedom from harassment, due process in judicial matters, and the right to appeal judgments and *penalties* for alleged misconduct. Additionally, students are responsible for

conducting themselves, both individually and in groups, in a manner which promotes an atmosphere conducive to teaching, studying and learning. Students are expected to uphold academic and personal integrity, to respect the rights of others, to refrain from disruptive, threatening, or harassing behavior, or behavior, which is harmful to themselves, other persons or property. Students have the responsibility to abide by the standards, policies, and regulations of the University, and should comply with reasonable instructions from University personnel while in the performance of their duties. (p. 2)

The social preamble is overall non-legalistic with one legalistic word, *penalties*. The preamble establishes the academic nature of the institution and outlines the rights and

responsibilities of each student. However, the use of the word *penalties* could cause confusion about the formality of the judicial process.

Social Conduct Codes.

The social conduct codes outline eight actions that violate the standards of community behavior. These actions include intentionally damaging, vandalizing, defacing, destroying or stealing University property or property of another person; engaging in threatening or endangering behavior; failing to comply with staff or regulations during emergency or safety situations; possessing firearms or dangerous weapons; and unauthorized use of telephones, keys, or student identification. The social conduct codes are institutionally defined and written in non-legalistic language.

Academic Conduct Codes.

The academic conduct codes describe all honesty and integrity violations that may occur during class participation, examinations, assignments, and any other academic work. These violations include cheating; plagiarism; forgery; fabrication; theft of instructional materials or tests; unauthorized access to materials; alteration of grades, records or files; and covering up academic dishonesty. All faculty and students are expected to report academic misconduct. The academic conduct codes are institutionally defined and written in non-legalistic language.

Social Judicial Procedures.

The social judicial procedures respond to violations of the student conduct code and general university community standards. The Dean of Students serves as Judicial Advisor and manages the judicial process to ensure that it keeps with university policy. Violations of the student conduct code are reported to the Judicial Advisor or his/her designee. The Judicial

Advisor determines if the violation is major or minor and refers the case to the appropriate judicial body.

The Peer Review Board adjudicates minor violations of the student conduct code. Minor violations are those that likely result in a warning, fine, restitution, behavioral contract, loss of privilege, or other lesser sanction. A majority vote of the Peer Review Board is needed to determine if it is more likely than not that the student violated the student conduct code. A student may appeal a Peer Review Board decision to the Student Judicial Council.

The Student Judicial Council adjudicates major violations of the student conduct code. Major violations are those that likely result in residence hall suspension or expulsion, or University disciplinary probation, suspension, dismissal, or expulsion. For example, Residence Hall Expulsion is a permanent separation of the student from the residence hall” (p. 10). In all cases where there is a charge of a major infraction of the Student Code of Conduct and there is no *admission of guilt* the matter shall be referred to the Student Judicial Council for a hearing. In the case of major infractions of the Student Code of Conduct where the student *admits guilt* the Judicial Advisor may recommend to the Student Judicial Council sanctions to be imposed on the student without a hearing. The Student Judicial Council shall impose the sanctions. A student who *admits guilt* may elect to have a hearing before the Student Judicial Council. (p. 9)

Any member of the community can file a complaint with the Judicial Advisor who notifies the student accused of the misconduct. A hearing is scheduled no less than five days before and no more than 15 days after the student is notified of the complaint. All hearings are recorded. Hearings are held in private unless both parties involved consent to a public hearing. An advisor may assist the complainant and the accused student and each may present witnesses.

All decisions are made by secret ballot based on the evidence presented. “Except when student charged with failing to obey the *summons* of a judicial body or University official, no student may be found to have violated the Student Code solely because the student failed to appear before a judicial body” (p. 11). A student may appeal the Student Judicial Council to the University Appeals Board.

The accused student must make all appeals in writing within five class days of the decision to the Judicial Advisor who forwards the appeal to the appropriate appellant body. An appeal may be based on (a) fair hearing procedures, (b) determination that the violation occurred, (c) appropriate sanctions, or (d) new evidence.

Interim suspension may be imposed if the student is deemed to be a threat to him/herself or the community. Additionally, a student may have judicial proceedings against him/her by the University without regard to any criminal or civil charges for the same actions. Under exceptional circumstances, the Judicial Advisor in conjunction with the President may resolve a matter administratively. Finally, all questions about interpretation of the conduct code are referred to the Student Judicial Council. The conduct code and judicial process are revised no less than every two years.

The social judicial procedures are overall non-legalistic with two exceptions. The exceptions are the legalistic words *guilt* and *summons*. The use of these words may cause confusion about the formality of the judicial hearing as well as the difference between a university hearing and a court trial.

Academic Judicial Procedures.

The academic judicial procedures are used when an instructor believes that academic dishonesty may have occurred. If plagiarism or cheating is believed to have occurred, then the

instructor discusses the allegations with the involved student(s) and determines a course of action. The instructor then prepares a report of the incident, consults with the Dean and imposes sanctions. The sanctions imposed are (a) first offense, failing grade in the course or (b) serious or second offense, suspension or dismissal from the University. The student may appeal the decision. If any other academic violation other than cheating or plagiarism is suspected, the Dean will discuss the matter with the involved student(s) and decide a course of action. The sanctions are recommended to the Vice President of Academic Affairs and are usually either suspension or dismissal from the University.

A student may appeal the academic dishonesty decisions. An appeal must be made in writing to the Vice President for Academic Affairs within 10 school days for one of three reasons: (a) procedural error, (b) new evidence, or (c) inappropriate sanctions for the violation. The Appeals Board may decide immediately on the appeal or call a hearing to collect relevant evidence. A hearing is recorded and the Board attempts to make a decision immediately after all *testimony* is received. All Appeals Board decisions are final.

The academic judicial procedures are written in non-legalistic language with one exception. The one exception is the use of the word *testimony*. The use of this legalistic word could cause confusion about the nature and formality of a judicial hearing.

Document Classification.

The preamble, social judicial procedures and the academic judicial procedures are overall non-legalistic with one legalistic word each (*penalties, guilt, testimony*). The social and academic conduct codes are institutionally defined and written in non-legalistic language. For these reasons, this document is non-legalistic with legalistic words (N-L L).

S4

S4 is a mid-west, private Master's Colleges and Universities I institution. S4's student conduct code is a 10-page document. The document addresses only social regulations.

Preamble.

The preamble sets out that the conduct code is a framework for an academic society where all members can realize their full potential. The code protects the rights of the community to "learn, teach and do research" while preserving "the right to free expression, peaceful assembly and orderly protest, yet it also recognizes the need for normal university activities to continue undisturbed" (p. 1). Students retain their full citizen rights and must comply with all laws while conducting themselves in a respectable manner. Students who fail "to observe the general standards of conduct or any specific regulation adopted by the university, or who acts in a manner not in the best interest of other student of the university, are liable to disciplinary action" (p. 1). The preamble is written in non-legalistic language and establishes the need for a student conduct code to maintain the academic community.

Conduct Codes.

The conduct codes are a list of 42 violations with a description of each violation. Several of the violation descriptions include possible sanctions that can be imposed for the violation. The list of violations include abuse, assault or harassment; alcohol; bribery; damage or vandalism; dining room violations; drugs; false information or testimony; fighting; gambling; pets; room conditions; theft; tobacco; visitation; and weapons. For example, academic dishonesty is defined as:

students using unauthorized information in taking an exam; submitting as their own, the work, themes, reports, drawings, laboratory notes or other products prepared by another

person; or knowingly assisting another student in obtaining or using unauthorized materials. Such behavior is unacceptable and students *found guilty* of dishonesty face suspension, conduct probation or disciplinary reprimand. (p. 1)

The conduct codes are written, overall, in non-legalistic language; however there are two exceptions. First, student can be *found guilty* of academic dishonesty (p. 1). Second, a conduct code violation prohibits students from providing “False Information or *Testimony*” (p. 5). The use of these words could cause confusion about the formality of the conduct codes.

Judicial Procedures.

All conduct code conflicts or disputes are first addressed through informal means; however, if formal procedures are needed, the University provides a fair process for handling all violations. The Student Judicial Board addresses all conduct code cases. “The purpose of the Student Judicial Board is to uphold and maintain the rights and responsibilities of the student of [Institution]” (p. 9). The Board is comprised of students, faculty and the Dean of Students as chairperson.

All allegations of misconduct are reported to the Dean of Students who issues a statement to the accused party concerning the charges and the section of the conduct code on which the charges are based. Additionally, the accused party will receive notice of the hearing date, time and location at least 48 hours before the hearing.

During a hearing the accused student may (a) choose an advisor, (b) request a public hearing, (c) be present in the hearing when witnesses appear, (d) question each witness after they present their *testimony*, (e) present a defense and witnesses, (f) refuse to answer questions without implication of responsibility, and (g) be present throughout the hearing.

The chair convenes the hearing and reads the charges. The student is given the opportunity to respond to the charges and give his/her account of the circumstances. All board decisions are reached in private and are based on the facts presented during the hearing. The student is immediately notified of the hearing decisions and corresponding sanctions. The possible sanctions include admonition, warning, restitution, probation, suspension, and expulsion.

A student may appeal within 10 days of receiving the board's decisions. The Vice President for Student Services reviews the appeal and makes a final decision. An appeal of a sanction of suspension or expulsion may be made to the University President.

The judicial procedures are written, overall, in non-legalistic language; however there is one exception. During a hearing, witnesses present *testimony*, which is a legalistic word. The use of this word could cause confusion about the formality of the judicial process.

Document Classification.

The preamble is written in non-legalistic language and establishes the need for a student conduct code to maintain the academic community. The conduct codes and judicial procedures are written, overall, in non-legalistic language; however legalistic words are used. Therefore, this document is non-legalistic with legalistic words (N-L L).

S5

S5 is a northwestern, private Master's Colleges and Universities I institution. S5's student conduct code is a three-page document. The document addresses only social regulations.

Preamble.

The preamble states that the institution's standards for behavior are "representative of the University's identity and are designed to provide a positive learning environment while

promoting the intellectual, social, spiritual and physical well-being of students” (p. 41). Students agree to the behavioral standards upon accepting enrollment in the University. Legal authority, Scripture, the historic Christian tradition and the University’s mission shape the behavioral standards as well as institutional policies. Any violation of the established standards may result in disciplinary action. The preamble is written in non-legalistic language and establishes the need for student conduct codes to maintain a positive learning environment.

Judicial Procedures.

The judicial procedures begin with a private conversation between the two persons involved. If a private conversation does not resolve the matter a staff member is brought in for consultation. If the matter cannot be resolved with a staff member, then the matter goes to counseling or to judicial action.

The primary goal of the disciplinary process is educational and redemptive, the process is non-adversarial and should not be considered analogous to court proceedings. Review meetings are not courtroom dramas. They are meetings among community members to give all parties the opportunity to identify concerns, explain perceptions, explore behavior and hear suggestions. The emphasis is placed on student behavior, and the relationship of behavior to commitments and responsibilities inherent in accepting membership into the University community. (p. 42)

Any student alleged to have violated the conduct codes is notified of the violation and given the opportunity to respond to the allegations. Students are expected to assume responsibility by fully participating in the review process. Sanctions may be imposed if a student does not appear or cooperate in a review hearing. The student will receive written notification of the judicial officer’s decision from any conduct review meeting or hearing. Any student may be

immediately suspended if the student is deemed to be an immediate threat to him/herself or the campus community.

Sanctions are imposed based on the case circumstances and may be imposed singly or in combination with other sanctions. Possible sanctions include a warning, written reprimand, educational activity, counseling, restitution or fines, community service, loss of privileges, exclusion from buildings or areas on campus, disciplinary probation, suspension, and/or dismissal. Repeat violations or failure to complete a sanction can result in more severe sanctions.

A student may appeal a disciplinary action to a designated official within 48 hours of receiving a written decision notice. Appeals may be made only once and only if new information is available, sanctions are not appropriate, procedural irregularities or errors occurred, or the student was not provided a fair review.

The judicial procedures are written in non-legalistic language. The discipline process is educational in nature and allows for full student participation in resolving a case.

Conduct Codes.

The conduct codes are lifestyle expectations governing the personal conduct of each student and student organizations. Fifteen behaviors are listed that subject a student to disciplinary action including actions that constitute violations of municipal, state or federal law; interfere with the educational process; cohabitation; drug, tobacco or alcohol use; dishonesty; discrimination or harassment; failure to comply; false reporting; or violations of other University policies, regulations, or rules. For instance, student's should not have "unauthorized possession of, or damage to, University property or services, or property belonging to others. Unauthorized presence in, or unauthorized use of or duplication of keys to University premises or property" or participate in "activities that may cause damage or constitute a safety or health hazard or

interfere with the academic process” are also violations (p. 43). The conduct codes are institutionally defined and written in non-legalistic language.

Document Classification.

All sections of this document are written in non-legalistic language. The preamble establishes the need for student conduct codes to maintain a positive learning environment. The judicial procedures are educational in nature. Additionally, the conduct codes are institutionally defined in non-legalistic language. For these reasons, this document is non-legalistic (N-L).

Large Sample

Five institutions comprised the large sample. All five institutions were public institutions. Three institutions were Carnegie Classified as Doctoral/Research Universities – Extensive and two institutions were classified as Master’s Colleges and Universities I. Three institutions are located in the south and one institution is located in the mid-west and southwest respectively. To ensure the anonymity of institutions in this study all large intuitions have been renamed L1-5.

L1

L1 is a southern, public Doctoral/Research Extensive University. L1’s student conduct code is a 12-page document. The document addresses only social regulations.

Preamble.

The preamble addresses the application, scope and authority of the student conduct code. The conduct code applies the principle of responsible freedom to guide student conduct and informs students about their rights and responsibilities while reinforcing the development of ethical standards. The conduct code applies to all students for all on-campus behavior as well as off-campus behavior that adversely affects the University community. All campus processes for adjudicating violations of the student conduct code are separate from any processes to adjudicate

violations of state and federal law. Student discipline authority rests in the University President or his/her designee.

The preamble also defines a list of terms used throughout the document. The defined terms include University, student, on-campus, charged student, advisor, hearing body, policy and class days. For example, *preponderance of evidence* means that the evidence, as a whole, shows that the fact sought to be proved is more probable than not (p. 3).

The preamble is written in overall non-legalistic language with one exception. The exception is the standard of evidence used in all disciplinary cases. A *preponderance of the evidence* is a legalistic term and could cause confusion about the formality of judicial hearings as well as the difference between campus hearings and courts of law.

Conduct Codes.

The conduct codes are a list of 13 offenses that represent violations of the student conduct code. Additionally, aiding, abetting, inciting, or attempting to commit the offenses is a violation. The 13 offenses include sexual misconduct, endangerment, harassment, hazing, weapons, fire and safety, illegal drugs, alcohol, disruption, identification, computers, and violations of various policies. For example, property violations include:

1. Damage or destruction of public or private property.
2. Theft – knowingly and without authorization removes or uses the property or services of another person or of the university.
3. Possession or sale of property or services that are known to have been stolen. (p. 5)

The student conduct codes are institutionally defined and written in non-legalistic language.

Judicial Procedures.

The judicial procedures address students' rights, victims' rights, case procedures, sanctions, appeals, and judicial records. Students are given the right to have clear and complete notice of any charge and the allegations on which a charge is based. Additionally, a student has the right to present information during a fair and impartial hearing. Victims are individuals impacted by sexual misconduct, endangerment, harassment, hazing, and property damage or theft. A victim is afforded the right to an advisor; the ability to submit an impact statement; have unrelated past behavior excluded from the hearing; request to *testify* in a separate room if the case involves sexual misconduct, physical violence or stalking; be present throughout the entire hearing; and be notified of the hearing outcomes.

Charges of misconduct are to be made through filing a police report or providing a signed statement to the designated administrative office. All information is reviewed and a determination is made concerning if a student conduct code charge should be filed. When a charge is filed, the charged student is notified of (a) the source of information, alleged offense, and specific Code charges to prepare a defense, (b) invitation to attend an information session where all case materials can be reviewed and disciplinary process instructions are given, (c) notice of the formal hearing at least seven class days prior to the hearing, (d) if the charged student's parents are notified because the student is under the age of 18, (e) if a hold is placed on the student's record, and (f) the address on file that is used for all disciplinary notices.

There are two types of hearings, formal and informal. Informal hearings are scheduled at the convenience of the charged student and hearing body and are better suited to cases involving fewer questions of fact. Formal hearings are held no sooner than seven class days after a student is notified of the charges. All hearings whether formal or informal follow 11 guidelines which

include: (a) all hearings will be fair and impartial, (b) the charged student will have the opportunity to present evidence, (c) the charged student and witnesses may have an advisor of their choice, (d) a student may choose not to answer any questions posed by the hearing body, (e) all hearings are conducted in private, (f) all decisions are communicated in writing, (g) all appropriate witnesses will be called to formal hearings, (h) the hearing may be held in the student's absence after proper notice, (i) prior disciplinary action and victim impact statements are considered in the sanctioning phase, and (j) determination of 'responsible' or 'not responsible' is based solely on the information presented at the hearing. Additionally, the burden of proof at a first-level hearing always rests with the University, and the standard of proof will be the *preponderance of the evidence*; which means that the evidence, as a whole, shows that the fact sought to be proved is more probable than not (p. 6).

A case may be heard by one of nine hearing bodies depending on the charges involved. The Director of Student Rights and Responsibilities, a Hearing Officer, the Dean of Students, the Student Conduct Board, and an Administrative Hearing Panel may conduct both informal and formal hearings on individual or group cases. The Interfraternity Council or the National Pan-Hellenic Council may conduct informal and formal hearings regarding cases of organization's alleged violations. Finally, University Housing Hearing Officers and the University Housing Judicial Board may conduct both informal and formal hearings on cases arising in University housing. A charged student may choose which hearing type and the appropriate hearing body will adjudicate their case. However, a charged student may be immediately suspended from the University until a hearing can be scheduled if the student poses a threat to the University or him/herself.

Any student found to have violated the student conduct code might have one or a combination of 16 sanctions imposed. These sanctions include reprimand, work hours, educational activities, counseling assessment, restitution, fees, conduct probation, disciplinary probation, change in housing assignment, exclusion, suspension, dismissal, expulsion, withholding records, and restrictions on contact with other persons. For example, a transcript notation is “a written notation indicating that disciplinary action was taken. This sanction may be applied only in cases in which the student has been permanently separated from the University” (p. 10).

A student may appeal a hearing body decision to the appropriate next level hearing body. For example, recommended decisions of the Student Conduct Board may be appealed to the Dean of Students. Appeals must be submitted within five class days to the appropriate appellate officer and must state the reason for appeal as being (a) due process errors, (b) demonstrated prejudice, (c) new information, (d) extraordinarily disproportionate sanction, and/or (e) *the preponderance of the evidence* presented does not support a finding of ‘responsible.’ The appellate decisions are recommended to the Vice President for Student Affairs who may affirm, modify, or reverse the recommended decision, or order a new hearing. Any appellate decision approved by the Vice President or Student Affairs is final.

Judicial records are kept in the appropriate administrative office and are removed after seven years. All records are released in accordance with state and federal laws. General, non-identifying information of the outcome of disciplinary proceedings may be released to the public.

The judicial procedures are written in overall non-legalistic language. However, one legalistic word and one legalistic phrase are used. Victims may request to *testify* in a separate

hearing room and the burden of proof is based on a *preponderance of the evidence*. The use of these legalistic items may cause confusion about the formality of disciplinary proceedings.

Document Classification.

The preamble and judicial procedures are written in overall non-legalistic language with one legalistic word (*testify*) and one legalistic phrase (*preponderance of the evidence*). The student conduct codes are institutionally defined and written in non-legalistic language.

Therefore, this document is non-legalistic with a legalistic word and phrase (N-L L).

L2

L2 is a southern, public Doctoral/Research Extensive University. L2's student conduct code is a 15-page document supplemented by a 18-page procedures manual. The document addresses both social and academic regulations.

Preamble.

The preamble includes a description of the mission and purpose of the University conduct code, the authority for discipline, interpretation of the regulations, jurisdiction, and a glossary of terms used in the document. The code of student conduct

sets out the kind of behavior that disrupts and inhibits the normal functioning of the University, and what actions it will take to protect the community from such disruption.

Like civil authorities (such as the federal, state, and county governments, to which the members of the community are also subject), the University has expectations about how its student will behave, and rules to follow when students are accused of violating those expectations. This code and the accompanying manual of procedures describe those rules, which are designed to protect both the University community and any of its student members who are accused of disrupting it. (p. 1)

The Chancellor is the ultimate authority for student discipline and s/he delegates the authority to administrators, committees, and organizations. The disciplinary regulations give general notice to students of prohibited conduct and are not exhaustive. The conduct code applies to all students from the time of admission acceptance until graduation. The University may also take appropriate action for student behavior occurring off-campus that poses a potential danger to others, which would disrupt the campus environment or adversely affect the University.

A glossary of terms is listed at the end of the student conduct code to define common words or phrases used in the conduct code and/or procedures manual. This list includes terms such as advisor, campus appearance ticket, *Chief Justice*, complainant, distribution, group, institution, organization, respondent, student, faculty member, and University premises. For example,

The term ‘reckless’ means conduct which one should reasonably be expected to know would create a substantial risk of harm to persons or property or which would otherwise be likely to result in interference with normal University or University sponsored activities. (p. 14)

The preamble and the glossary are written in non-legalistic language with one exception, *Chief Justice*. The use of this phrase could cause confusion about the formality of the discipline process and the difference between campus discipline and a court of law.

Academic Conduct Codes.

The academic conduct codes are a list of behaviors that would constitute an academic integrity violation. In addition, possible sanctions for an academic integrity violation are listed. “The free exchange of ideas depends on the participants’ trust that they will be given credit for their work” and also “depends on the participants’ trust that others’ work is their own and that it

was done and is being reported honestly. Intellectual progress in all the disciplines demands the truthfulness of all participants” (p. 2-3). Therefore,

academic dishonesty is the giving, taking, or presenting of information or material by a student that unethically or fraudulently aids oneself or another on any work which is to be considered in the determination of a grade or the completion of academic requirements or the enhancement of that student’s record or academic career. (p. 3)

A student is *guilty* of a violation of academic integrity if s/he (a) represents the work of others as his/her own, (b) obtains assistance on any academic work where individual performance is required, (c) give assistance on any academic work where individual performance is required, or (d) offers false data to support laboratory or field work. Academic integrity violations include cheating, plagiarism, and aiding and abetting others to cheat or plagiarize. For example, plagiarism is defined as:

1. Submitting written materials without proper acknowledgement of the source.
2. Deliberate attribution to, or citation of, a source from which the referenced material was not in fact obtained. (p. 4)

A student who has violated an academic integrity policy will always be placed on academic integrity probation for the rest of their academic career. Additionally, the student could receive a reduction in grade on the assignment, no credit on the assignment, no credit for the course, academic community service, other non-academic sanctions, be required to participate in the Academic Integrity Seminar Series, be suspended or expelled.

Overall, the academic conduct codes are written in non-legalistic language. However, the use of two legalistic words, *guilty* and *Chief Justice*, could cause confusion about the formality of the discipline process and the difference between campus discipline and a court of law.

Social Conduct Codes.

The social conduct codes are a list of 23 behaviors that would constitute a violation of the student conduct code including violations of federal, state, and local law. In addition, possible sanctions for a conduct code violation are listed. The conduct codes include items such as alcohol violations, *contempt*, disorderly conduct, failure to submit identification, false alarm, fireworks, harassment, hazing, controlled substance violations, theft, vandalism, and weapons. For example, trespassing is the “forcible or unauthorized entry into or unauthorized presence in a University building, office, room or areas to include, but not limited to, basements, roofs, steam tunnels, furnace rooms, crawl spaces, out buildings, and posted lands or grounds” (p. 9).

A student who has violated a conduct code policy could receive a sanction of a written warning, restitution, service hours, administrative room change, attendance at a special program, restriction of privileges, disciplinary eviction, suspension, or expulsion. For instance, disciplinary probation is a sanction that “constitutes a pre-suspension status, and therefore if a student is found *guilty of or admits guilt* for an offense while on disciplinary probations, more severe sanctions will be levied and suspension or expulsion will be considered” (p. 10-11).

Any repeated or aggravated violations may result in expulsion, suspension or the imposition of appropriate lesser *penalties*. Any attempt to commit acts prohibited by the conduct code may be *punished*. Further, a student who poses a threat to him/herself or the community may be placed on interim suspension until a hearing can be held.

The social conduct codes are written in overall non-legalistic language with the use of several legalistic words. The use of the legalistic words, *contempt*, *guilt*, *penalties*, and *punished*, could cause confusion about the formality of the judicial process as well as the difference between a campus discipline process and a court of law.

Judicial Procedures.

Any person may refer a student or student group suspected of violating the conduct code in a timely manner to the Director of the Office of Student Conduct. During the campus discipline process, students are afforded five standards of due process which include (a) advance written notice of charges, (b) a judicial board hearing where a sanction of suspension or expulsion may be imposed, (c) the disciplinary proceedings are to determine the *guilt or innocence* of the accused student where formal rules of evidence do not apply, (d) a copy of the procedures manual used in disciplinary cases, and (e) campus disciplinary proceedings may occur without regard to criminal or civil actions.

The judicial hearing procedures are found in an accompanying procedures manual intended “to educate the reader regarding the processes and mechanisms used to resolve allegations of student misconduct” (p. 1). Further, “while the student judicial system at this University does incorporate some principles associated with the legal system it is fundamentally an administrative review process and should not be compared to the system of resolution offered in the courts” (p. 1). The judicial procedures include the rights and responsibilities of all involved parties, types of judicial review, hearing procedures, appeals procedures, and information on disciplinary records.

The respondent, or charged student, is afforded nine rights when his/her conduct is under review. These rights include (a) written notice of charges, (b) reasonable access to the case file, (c) explanation of procedural alternatives, (d) “to be presumed *innocent* unless proven *guilty*,” (e) respond to evidence and question witnesses, (f) “to *plead innocent* without being charged for lying in relation to the *plea* if proven *guilty*,” (g) appeal the decision, (h) review the Code of Student Conduct and Procedures Manual, and (i) waive any rights freely and in writing.

The complainant or victim is afforded 10 rights when bringing a charge against another student. These rights include the opportunity to (a) file charges, (b) pursue criminal or civil charges, (c) receive an explanation of the applicable charges, (d) receive an explanation of procedural alternatives, (e) have all formal complaints investigated, (f) receive contact and referral information from staff members (g) be free from harassment and intimidation from respondents, (h) *testify* at the disciplinary process, (i) question witnesses and (j) in cases of alleged sexual assault, have an emotional support person, be free from irrelevant sexual history questions and make an impact statement if “the respondent is found *guilty*” (p. 2).

The respondent, complainant and witnesses have six responsibilities during a hearing including (a) knowing and adhering to the conduct code, (b) being honest and complete in providing information, (c) attending all meetings, conferences and hearings, (d) completing any imposed sanctions, (e) participating in a civil and respectful manner, and (f) preparing and presenting the entire case.

The Office of Student Conduct or University Housing will determine which appropriate judicial process the student’s case will be referred to within 30 calendar days. A case can be sent to one of 10 judicial processes including (a) mediation or alternate dispute resolution, (b) disciplinary conference or Residence Hall Judicial Board for University Housing cases, (c) Graduate or Veterinary College hearing, (d) disciplinary conference in the Office of Student Conduct, (e) Student Faculty Hearing, (f) report form of an academic integrity violation resolved between a student and faculty member where the student *pleads guilty* by signing the form, (g) Academic Integrity Review Board, (h) Administrative Hearing, (i) Extraordinary Disciplinary Intervention or Interim Suspension or (j) Student Government Review Board. If deemed

necessary due to a threat to the community or to the student themselves, a student can be placed on interim suspension and is afforded a hearing by the Vice Chancellor for Student Affairs.

A disciplinary conference is an informal, non-adversarial meeting between the respondent and a University administrator. The charged student receives written notice of charges at least five business days prior to the scheduled conference. The student has reasonable access to the case file, may respond to the evidence, and may be accompanied by an observer. The student may *plead guilty* to the charges against them. A decision to hold the student responsible for the violation is based on the student being more likely than not to have engaged in the alleged misconduct. All decisions and appeals information are given to the student within 45 days after the conference.

Hearings by the Academic Integrity Review Board, Student Faculty Hearing Board, Administrative Hearings, and the Student Government Review Board follow the same hearing procedures. The charged student is notified of the charges at least 10 days before the hearing and is permitted to review all case information. A student, faculty, or staff member serving as an advisor and one observer who can be a parent, another student, or an attorney if the student is facing criminal charges may accompany the respondent.

The Student *Chief Justice* presides over the hearing, which is tape-recorded and closed to the public. The respondent, complainant and witnesses affirm that their *testimony* is truthful and then *testify*. The respondent and complainant may ask questions and provide a closing statement. The burden of proof is on the complainant who must *establish guilt* by clear and convincing evidence. Formal rules of evidence do not apply in a hearing nor does the Fifth Amendment privilege against self-incrimination or the constitutional prohibition of double jeopardy.

When a respondent's case has been adjudicated in criminal court for the same charges, and the respondent has either *pled guilty* or been *found guilty, guilty* for the corresponding violation of the Code of Student Conduct is deemed to be established and a hearing may be held under this process to determine sanctions only. (p. 7)

Board decisions of *guilty, not guilty*, or insufficient evidence are made in private by a majority vote. The board will determine whether the charging official has shown by a *preponderance of the evidence* that the student committed the offense charged. A supplemental proceeding to allow each party to make statements concerning sanctions following a *determination of guilt*. The board then decides, in private, any sanctions to be imposed. A *determination of guilt* and sanctions is provided to the student at the conclusion of the hearing.

Only a student found *guilty* of a violation may appeal all academic and non-academic cases within 10 business days based on a violation of due process or material deviation from the procedural standards. Academic appeals go to academic administrators (Provost, Dean of the Graduate School or Dean of the College of Veterinary Medicine) while non-academic appeals go to student affairs administrators (Vice Chancellor for Student Affairs, Dean of the Graduate School or the Dean of the College of Veterinary Medicine). An appeal may result in the finding being affirmed, remanded, or the case dismissed.

All disciplinary files are destroyed if the student is found *innocent* of the charged violation. All disciplinary files are destroyed after five years if the student is found *guilty* of the violation and a sanction less than suspension was imposed. All disciplinary files are permanent if the student is found *guilty* of the violation and the sanction imposed was suspension or expulsion. A permanent notation is made on the student's transcript if s/he is expelled and a

notation is made on a student's transcript if s/he is suspended which may be removed after a petition to do so.

The judicial procedures are non-legalistic in nature, however several legalistic words are used throughout the judicial procedures manual. The use of these legalistic words (*guilt, Chief Justice, innocence, plea, testify, testimony, not guilty, preponderance of the evidence*) could cause confusion about the formality of the disciplinary process as well as the difference between a campus hearing and a court of law.

Document Classification.

The preamble, academic conduct codes, the social conduct codes and the judicial procedures are written, overall, in non-legalistic language; however, several legalistic words are used throughout the document (*Chief Justice, contempt, guilt, penalties, punished, innocence, plea, testify, testimony, not guilty, preponderance of the evidence*). For these reasons, this document is non-legalistic with legalistic words or phrases used throughout (N-L L).

L3

L3 is a mid-west, public Doctoral/Research Extensive University. L3's student conduct code is a 12-page document. The document addresses social regulations. Additionally, the document begins with a Bill of Student Rights. The Bill of Student Rights includes such rights as changed graduation requirements not delaying completion, freedom from unlawful discrimination, freedom from illegal search and seizure, ability to form and join student organizations, ability to have educational records private unless under lawful compulsion, and freedoms granted through the United States Constitution.

Preamble.

The preamble outlines the authority and application of the student conduct code as well as defines terms used throughout the document. The conduct regulations are under the authority of the University Trustees pursuant to the laws of the state and apply to all enrolled students. The preamble defines 11 terms used throughout the document, which includes university action, Dean's Office, administrative action, disciplinary penalty, educationally sound sanctions, obstruction of University activity, and probated suspension. For example,

Disciplinary probation means a probationary student status imposed for a limited time as a result of an official determination of misconduct. In the event the student is found *guilty* (under the procedures set forth in these regulations) of subsequent charges of misconduct committed during the period of disciplinary probation, records of such disciplinary probations shall be taken into consideration in determining the disciplinary *penalty*, if any, to be imposed or the administrative action, if any to be taken because of such subsequent misconduct. (p. 4)

The preamble is written, overall, in non-legalistic language. However, in the definition of three terms used throughout the document, the legalistic words *penalty* and *guilty* are used. The use of legalistic words could cause confusion about the formality of the disciplinary process.

Conduct Codes.

Students are expected to abide by all state and federal laws as well as all University rules and regulations. Any violation could result in disciplinary action and *penalties*. Misconduct violations include dishonesty in an University activity, forgery or alteration of documents, obstruction or disruption of any University activity, physical abuse, theft or attempted theft, unauthorized entry or access, violation of rules governing student organizations, drug violations,

lewd or indecent conduct, failure to comply, conduct that substantially threatens or interferes with order and discipline, violation of the anti-harassment policy, alcohol violations, and weapons. Additionally, misconduct

may be *punished* after determination of *guilt* by the procedures herein provided without regard to whether such misconduct also constitutes an offense under the criminal laws of any state or of the United States or whether such conduct might result in civil liability of the violator to other persons. (p. 6)

The conduct codes are written in non-legalistic language with the exception of three legalistic words, *penalties*, *punished*, and *guilty*. The use of these legalistic words could cause confusion about the formality of disciplinary proceedings and the difference between campus discipline and courts of law.

Judicial Procedures.

Cases of alleged violations of the student conduct code are adjudicated by either administrative action or disciplinary proceedings. Administrative action proceedings are informal investigations by the Dean's office. Administrative action can be taken without disciplinary proceedings and all decisions are final and not subject to a hearing or appeal. All disciplinary proceedings are initiated by the issuance of a notice of charges, which includes the alleged violation, information concerning the incident and a request to appear for a hearing in the Dean's office.

If a student fails or refuses to attend a hearing with the Dean, the Dean may continue with the investigation and either dismiss the charges, take administrative action, or impose a disciplinary *penalty*. The student may appeal any disciplinary *penalty* but any administrative action is final.

If the student appears for the hearing in the Dean's office, the student is notified of the case information and given the opportunity to provide information. The Dean's office has the burden of proving the student *guilty* of the alleged violation and is based on the information introduced at the hearing. The hearing officer, who is present for all *testimony* and investigations, renders the hearing decisions. After the Dean's hearing, the hearing officer can dismiss the charges, take administrative action, or impose a disciplinary *penalty*. The student is notified within five days of the action taken. "The decision letter shall contain a finding as to the *guilt or innocence* of the student and a brief statement of the reasons for the *penalty*" (p. 7). The student may appeal any disciplinary *penalty* but any administrative action is final.

A student may appeal the Dean's office decision within seven days after being notified of the hearing decision. An appeals hearing can be open or closed to the public. The student is allowed to have an advisor of his/her choice. During the appeal, the burden of proving the student *guilty* of the alleged violation rests on the University. The Appeals Board may (a) reverse the finding and *acquit* the student, (b) affirm the finding and *penalty*, (c) affirm the finding and amend the *penalty*. The Appeals Board also has jurisdiction to hear appeals from the *Student Supreme Court*. The Appeals Board issues a written decision with 10 days after the hearing and all decisions are final.

The judicial procedures are overall non-legalistic with several legalistic words used in the section. The legalistic words used are *penalty*, *guilty/guilty*, *innocence*, *acquit*, and *Student Supreme Court*. The use of these legalistic words can cause confusion about the formality of the judicial process as well as the difference between discipline procedures and a court of law.

Document Classification.

The preamble, conduct codes and judicial procedures are written, overall, in non-legalistic language. However, several legalistic words are used (*penalty, guilty, punished, innocence, acquit, and Student Supreme Court*). For these reasons, this document is non-legalistic with legalistic words (N-L L).

L4

L4 is southwestern, public Master's Colleges and Universities I institution. L4's student conduct code is an 11-page document. The document addresses academic and social regulations.

Academic Preamble.

The academic honesty preamble consists of the honesty statement and is written in non-legalistic language. The academic honesty statement is,

Learning and teaching take place best in an atmosphere of intellectual freedom and openness. All members of the academic community are responsible for supporting freedom and openness through rigorous personal standards of honesty and fairness. Plagiarism and other forms of academic dishonesty undermine the very purpose of the university and diminish the value of an education. (p. 1)

Academic Conduct Codes.

Academic dishonesty on academic work occurs by one of four types of actions: cheating, plagiarism, collusion and abuse of resource materials. For example, "Collusion means the unauthorized collaboration with another person in preparing written work offered for credit" (p. 1). Academic work is the preparation of an essay, thesis, report, problem assignments, or other projects submitted for grade determination. The academic conduct codes are written and defined in non-legalistic language.

Academic Judicial Procedures.

When a faculty member suspects that a student has committed an act of academic dishonesty, the faculty member requests a private conference with the student. In this conference, the faculty member presents the evidence and gives the student the opportunity to respond. If the faculty member continues to believe that a violation occurred, the faculty member advises the student of that fact and the academic *penalty* he/she will impose. If the student agrees with the faculty member's finding, s/he will sign a form accepting the finding, *the penalty*, and the form is sent to the Coordinator of Student Justice. The student has the right to appeal to the Department Chair, Dean, or Vice President for Academic Affairs within five working days. The Vice President for Academic Affairs' decision is final. If the case is flagrant or the student has repeated violations, the Vice President for Academic Affairs can refer the matter to the Coordinator of Student Justice for further disciplinary action.

The academic judicial procedures are written in non-legalistic language yet contain one legalistic word, *penalties*. The use of this word could cause confusion about the formality of the judicial process.

Social Preamble.

The social preamble establishes that the Code of Student Conduct is applicable to every enrolled student for on-campus and off-campus conduct that has an adverse effect on the University or the educational process. Each student is expected to know and comply with the policies. Further, students are expected to abide by federal, state, and local laws. Any student who violates civil or criminal laws is subject to University disciplinary action notwithstanding any action taking by civil authorities.

Additionally, the preamble lists 15 definitions used throughout the document. This list includes definitions for academic work, code, coordinator, disciplinary action, hazing, hearing officer, notice, published university policy, record, university, university official, university property, VPSA, will/shall. For example, “*preponderance of the evidence* means the quantum of evidence which, when given probative force, would tend to prove that a fact is more likely to be true than not” (p. 3).

The social preamble is written in non-legalistic with one exception. *Preponderance of the evidence* is a legalistic phrase, however, *more likely to be true than not* is a non-legalistic phrase. The definition of *preponderance of the evidence* can cause confusion to students, administrators, the general public, and the courts. It is not clear that the burden of proof required to find that a student has violated the student conduct code is either legalistic or non-legalistic in nature.

Social Conduct Codes.

Students are expected to conduct themselves in a manner consistent with the University’s mission and those who fail to do so violate the student conduct code and disciplinary *penalties* may be imposed. Specifically, there are 26 actions that violate the conduct code. These include actions such as failure to comply, intentionally furnishing false information or giving false *testimony*, unauthorized throwing of objects, gambling, possession or use of a firearm, theft, forgery, unauthorized entry, engaging in academic dishonesty, and disorderly conduct. For example:

Illegal possession, use, sale, or distribution of any drug, narcotic, or controlled substance, whether the infraction is found to have occurred on or off campus. ... (b) With the approval of the President or the President’s designee, suspension may be probated and sanctions may then include required counseling, rehabilitation, or both, along with other

appropriate *penalties* ... (d) A second finding of *guilt* for a drug-related offense shall result in permanent expulsion from the University and from all other institutions in the [State] University System. (p. 4)

Additionally, students are prohibited from participating in racial harassment, sexual harassment or the denial of a person's civil rights. Further, students are subject to disciplinary action for computer misuse.

The social conduct codes are written in non-legalistic language yet contain several legalistic words. The use of the legalistic words *penalties*, *testimony*, and *guilt* could cause confusion about the nature of the judicial process.

Social Judicial Procedures.

The Coordinator of Student Justice is the primary authority responsible for the administration of the student justice system. The Coordinator investigates information regarding a student violating University policy. During this investigation, the student is given the opportunity to explain the incident. If the Coordinator determines that the student violated a University policy, then the Coordinator determines an appropriate disciplinary *penalty*. If the student accepts the *penalty*, the *penalty* is imposed and the student waives his/her right to a hearing. If the student rejects the *penalty*, the Coordinator will initiate the hearing procedure. If deemed necessary, immediate interim administrative action may be imposed if the student is a threat to him/herself and/or the community.

The Hearing Committee is comprised of student members and a faculty or staff hearing officer. During the hearing process, each student is afforded four students rights, which are (a) notice at least five class days before the hearing including the policy alleged to have been violated; summary facts; hearing date, time and location; and names of known witnesses and a

summary of their expected *testimony*; (b) an opportunity to attend the hearing and present his or her own defense against the charges and may produce either oral *testimony* or written affidavits of witnesses in his behalf, (c) the opportunity to have a representative or counsel present, and (d) the opportunity to challenge the impartiality of the hearing officer or committee members before the introduction of *testimony* or any other evidence.

At least 24-hours prior to the hearing, the Coordinator and the student must provide the other party with a list of witnesses, summaries of *testimony*, documents, and other evidence to be presented in the hearing. The Coordinator has the burden of proving the charges by the greater weight of the credible evidence. The Hearing Officer determines the procedure to be followed, rules on the admissibility of evidence, and controls decorum. The Hearing Officer may also issue a written request for a witness to *appear and testify* or to produce documents at a hearing. Legal rules of evidence do not apply. The charged student may not be compelled to *testify* against him/herself. All hearings are confidential, recorded and may be postponed for good cause upon written request.

The Hearing Officer begins each hearing and reads a statement on confidentiality. The charges are read and the Coordinator presents evidence of the student's violation. The student is given the opportunity to present a defense. The Coordinator and the student may question witnesses regarding the matter. Additionally, the Coordinator and student may present brief summations before the Hearing Committee deliberates on the case. The Committee determines, by a majority vote, if the student violated a University policy. If the committee finds that the student is in violation, it will assess a *penalty*. A student or the Coordinator may appeal the decision to the Vice President for Student Affairs except when the *punishment* assessed is a warning or disciplinary probation. An appeal must be made in writing within five class days after

the committee's decision. The Vice President of Student Affairs will notify the student of his/her decision. The student has 10 days to request a discretionary review by the President.

The social judicial procedures are overall non-legalistic with several legalistic words used throughout. These words are *penalty/penalties*, *testimony/testify*, and *punishment*. The use of legalistic words could cause confusion about the formality of the judicial procedures.

Document Classification.

Academic preamble and conduct codes are written in non-legalistic language. The social preamble and conduct codes as well as the social and academic judicial procedures are written in non-legalistic language yet contain several legalistic words. For these reasons, this document is non-legalistic with legalistic words (N-L L).

L5

L5 is a southern, public Master's Colleges and Universities I institution. L5's student conduct code is a 16-page document. The document addresses social regulations.

Preamble.

The preamble outlines the purpose for discipline, as well as the authority, jurisdiction, and due process of the student conduct code. Additionally, the terms used throughout the document are defined.

The primary purposes for the imposition of discipline in the University setting are to protect the campus community and to maintain an environment conducive to learning. Consistent with those purposes, efforts also will be made to foster the personal and social development of those students who are held accountable for violations of University regulations. (p. 1)

The Chancellor has the duty to exercise full authority in regulating student conduct and discipline, which is delegated to administrative officers. The student conduct code applies as soon as a student applies to the University until the granting of his or her degree or other termination. The code covers behavior both on-campus as well as off-campus if the incident is on University property or affects University interests. The campus discipline investigation process may occur in conjunction with police investigation. Additionally, students may be held accountable for behavior to both civil authorities and the University for the same acts. Students who are charged with a violation are entitled to three standards of due process, (a) a hearing by either the *Student Court Panel* or the Administrative Hearing Panel, (b) disciplinary proceedings are to determine whether the accused is or is not responsible for violating disciplinary regulations, and (c) formal rules of evidence are not applicable.

The preamble includes a list of 22 defined terms used throughout the document. The terms include day, distribution, gambling, group, institution, minor violation, organization, party, record on appeal, responsible, student, University premises, and weapon. For example,

the term ‘separation of the student from the University’ means that the student may not be present on University campus or property, attend or participate in classes, manipulate any web site or other material residing on the University’s web server, access University’s email services, enter or use any University service or facility including residence, dining, recreation, leisure, library or computer lab services or facilities, or participate in recognized University clubs or any University-sponsored program, activity, or related event. (p. 3)

The preamble is written in non-legalistic language; however, one legalistic phrase, *Student Court Panel* is used. The use of this phrase could cause confusion about the difference between student discipline and courts of law.

Conduct Codes.

The conduct codes are any action, or attempt to engage in the action that subjects a student to disciplinary action. Student organizations may also be held accountable for group or individual member actions when the member is acting as a member of the organization. These actions include inflicting physical injury, weapons, initiating a false report, knowingly violating the terms of a disciplinary sanction, drug violations, setting fires, destroying or damaging property, using or possessing fireworks, engaging in computer abuse, and gambling. An example would be:

Forgery, unauthorized alteration, or unauthorized use or misuse of any document or instrument of identification (ID); displaying or using a ID that is not one's own or is fictitious, canceled, revoked, suspended, or altered; counterfeiting, loaning, or selling an ID to another person not entitled thereto. (p. 5)

The conduct codes are institutionally defined and written in non-legalistic language.

Judicial Procedures.

The judicial procedures section begins with a list of sanctions that may be imposed for a conduct code violation. Eight sanctioning options include disciplinary reprimand, disciplinary probation, removal from University housing definite suspension, indefinite suspension, expulsion, post-enrollment sanctions, and additional sanctions in conjunction with the previous sanctions including restitution, loss of privileges, or community service. Sanction may be imposed for attempts to commit acts of misconduct. A student may have an interim suspension

imposed if the student is determined to be a threat to him/herself or the campus community. Student organizations in violation of the conduct code could have a sanction imposed of registration revocation, registration suspension, registration probation, reprimand, as well as additional sanctions in conjunction with the previous sanctions including suspension from recruitment, denial of use of University facilities, or restitution.

Any University community member may file a written referral for any suspected violation of the student conduct code. The Associate Dean of Student for Judicial Programs will determine if a charge is pursued and if the charge is minor or major based on the accused student's prior record and the seriousness of the violation. If charges are pursued, the Associate Dean of Students schedules a hearing. The charged student can sign a mutual settlement and a waiver of hearing accepting responsibility for the violation and the sanction imposed by the Associate Dean of Students up to two days before the hearing.

Cases not settled through mutual settlement proceed to a hearing. For minor violations, a hearing will not be fewer than five days after the charged student receives written notice. For serious violations, the notice includes the offense, possible sanctions, and a brief summary of case information. The hearing is scheduled no less than 10 days after the charged student receives written notice. The hearing can be held earlier if the student waives the minimum preparation period.

Hearing panels are comprised of three students from the *Student Court*. An administrative hearing panel can be assembled from administrators, faculty and *Student Court* members if deemed necessary by the Associate Dean of Students. Each hearing has procedural guidelines which include (a) a written notice of the hearing, (b) organization representation by an officer, (c) witnesses may *testify* and evidence may be presented, (d) hearings comply with federal laws

including the Campus Security Act and FERPA, (e) a student may challenge the partiality of a hearing panel member, (f) accused students are not required to attend the hearing but the hearing will proceed as scheduled, (g) hearings are closed unless a mutual agreement is made between the charged student and witnesses to have an open hearing, and (h) the accused student and witnesses may have an advisor selected from the *Student Attorney General or Student Counsel* staff.

In addition, formal rules of evidence do not apply. The Hearing Panel Chairperson determines the admissibility of all evidence matters. The Chairperson also exercises control over the proceedings. Hearings are tape-recorded and the recordings become part of the case file. The burden of proof rests on the University, which must establish that the charged student is responsible for the violation by *a preponderance of the evidence*; that it is more likely than not that the accused party violated the Code of Student Responsibility as charged.

Hearing panel decisions on responsibility are made in private by a majority vote. Responsibility decisions are made before sanctioning recommendations are determined. The panel recommendations are made to the Associate Dean of Students in a written opinion. In the case of a minor violation, the Associate Dean of Students determines the sanction to be imposed no later than 45 days after the hearing. In the case of a major violation, the Associate Dean of Students makes all final decisions including suspension and the Vice Chancellor for Student Affairs makes all final decisions concerning expulsion within 45 days after the hearing. The student is given written notification of all decisions within 10 days of the administrative decision. Disciplinary sanctions are noted on academic transcripts.

A student may appeal the hearing panel's decision of responsibility or the written decision on sanctions within five days of receiving notice. Appeals are limited to due process

errors or substantive or procedural standard deviations. Appeals are reviewed by the Vice Chancellor for Student Affairs for minor violations or the Chancellor for major violations. Appeal decisions may (a) affirm the finding of responsibility and sanctions, (b) affirm the finding of responsibility and reduce the sanctions, or (c) remand the case to the hearing panel. The Vice Chancellor or Chancellor's decisions are final unless individual rights have been violated. If individual rights have been violated, a student may appeal to the Board of Trustees or the Board of Governors.

The judicial procedures are written in non-legalistic language, however, there are several legalistic words and phrases used throughout the section including *Student Court*, *testify*, *preponderance of the evidence*, and *Student Attorney General or Student Counsel*. The use of legalistic words and phrases could cause confusion about the formality of campus disciplinary processes and the difference between the campus judicial process and courts of law.

Document Classification.

The preamble and judicial procedures are written in non-legalistic language however; legalistic words and phrases (*Student Court*, *testify*, *preponderance of the evidence*, and *Student Attorney General or Student Counsel*) are used. The conduct codes are institutionally defined and written in non-legalistic language. For these reasons, the document is non-legalistic with legalistic words and phrases (N-L L).

Does Type of Language Vary by Institution Size?

The third research question asked if the type of language used in student conduct codes vary by institutional size (small vs. large). The five small institutions were classified as either (N-L) or (N-L L). Two institution's documents were classified (N-L) because the document had non-legalistic language throughout. The remaining three institution's documents were classified

(N-L L) because the documents had non-legalistic language overall yet had legalistic words, phrases, or sections. All five of the large institutions were classified (N-L L) because each had non-legalistic language overall yet each had legalistic words or phrases throughout.

The language used in the student conduct codes does not vary greatly among small and large institutions. Eight out of the ten institutions compared for this research question contained overall non-legalistic language with legalistic words and phrases. Therefore, these institutions are similar in the fact that they all continue to have legalistic language in the student conduct codes. The exceptions to the use of legalistic language are two small institutions that had documents containing only non-legalistic language.

Summary

The results of this document analysis show that the majority (16 of 20 or 80%) of the institution's student conduct codes contain legalistic words, phrases, and/or sections. However, four out of the 20 institutions have taken heed of Gehring, Pavela, and Stoner & Cerminara's advice and have non-legalistic language throughout their student conduct code. Table 3 shows the document classification for each institution.

Table 3

Document Classification of Each Institution in the Sample

Institution	Document Classification
Pub1	Non-legalistic with legalistic words, phrases or sections
Pub2	Non-legalistic with legalistic words, phrases or sections
Pub 3	Non-legalistic with legalistic words, phrases or sections
Pub4	Non-legalistic with legalistic words, phrases or sections
Pub5	Non-legalistic with legalistic words, phrases or sections
Pr1	Legalistic and Non-legalistic
Pr2	Non-legalistic
Pr3	Non-legalistic with legalistic words, phrases or sections
Pr4	Non-legalistic with legalistic words, phrases or sections
Pr5	Non-legalistic with legalistic words, phrases or sections
S1	Non-legalistic
S2	Non-legalistic with legalistic words, phrases or sections
S3	Non-legalistic with legalistic words, phrases or sections
S4	Non-legalistic with legalistic words, phrases or sections
S5	Non-legalistic
L1	Non-legalistic with legalistic words, phrases or sections
L2	Non-legalistic with legalistic words, phrases or sections
L3	Non-legalistic with legalistic words, phrases or sections

Table 3

Continued

Institution	Document Classification
L4	Non-legalistic with legalistic words, phrases or sections
L5	Non-legalistic with legalistic words, phrases or sections

CHAPTER FIVE

Discussion

This chapter discusses the results of the data analysis, limitations and implications of the study. The first section reviews the study procedures and major findings. Next, implications for future practice are addressed. Finally, possible limitations and the implications for future research are discussed.

Study Overview

The purpose of this study was to analyze student conduct codes to determine the extent to which college and university administrators have adopted Stoner and Cerminara, Gehring, and Pavela's suggestion to remove legalistic language from their student conduct codes. This study was designed to answer the following questions:

1. What type of language is being used in college and university student conduct codes?
2. Does the type of language vary by institutional type (public v. private)?
3. Does the type of language vary by institution size (small v. large)?

I conducted a content analysis on 20 college and university student conduct codes. The data for this study were collected on-line. To organize the data, I used Stoner and Cerminara's Model Code for Student Conduct (1990) to guide the development of the descriptive categories in which to sort the data. These three descriptive categories for the analysis of the student conduct codes were: (a) the preamble, (b) conduct codes, and (c) judicial procedures. The preamble, conduct codes, and judicial procedures for each document in the sample were analyzed to determine if the language used was legalistic or non-legalistic. Legalistic language would be reflective of the American court system. Non-legalistic language would be the antithesis of legalistic language.

The units of analysis were words and phrases used within sentences that represented the general context of the document. Using Stoner and Cerminara's (1990), Pavela's (2000) and Gehring's (2001) recommendations and model codes I identified words and phrases characteristic of legalistic language and, likewise, words and phrases characteristic of non-legalistic language. A color-coded highlighting system was used in the analysis of each student conduct code to identify if the language used in the document was legalistic or non-legalistic.

Major Findings

The types of language used in college and university student conduct codes examined in this study were classified as either legalistic or non-legalistic. To determine the types of language used in each student conduct code analyzed four document categories were created: (a) N-L, (b) N-L L, (c) L & N-L, and (d) L. Conduct codes classified as (N-L) had all non-legalistic language throughout the entire document. Conduct codes classified as (N-L L) had non-legalistic language overall yet each occasional had legalistic words, phrases, and/ or sections. Conduct codes classified as (L & N-L) had both legalistic and non-legalistic language throughout. Conduct codes classified as (L) had all legalistic language throughout the entire document.

All five of the public institutions were classified as non-legalistic with legalistic words, phrases or sections (N-L L). Two private institutions' documents were classified as non-legalistic (N-L), two were classified as non-legalistic with legalistic words, phrases or sections (N-L L), and one was classified as both legalistic and non-legalistic (L & N-L).

The documents of two small institutions were classified as non-legalistic (N-L) and the remaining three institutions' documents were classified as non-legalistic with legalistic words, phrases or sections (N-L L). All five of the large institutions were classified as non-legalistic with legalistic words, phrases or sections (N-L L). Overall, 15 conduct codes were classified as

non-legalistic with legalistic words, phrases or sections (N-L L), four were classified as non-legalistic (N-L) and one was classified as both legalistic and non-legalistic (L & N-L).

The language used in the student conduct codes does not vary greatly among public and private institutions or among small and large institutions. Sixteen of the institutions were classified as having student conduct codes with legalistic words, phrases, and/or sections. Therefore, the majority of the institutions continue to have some legalistic language in their student conduct codes.

Only four institutions had student conduct codes with only non-legalistic language. These four institutions were small or private institutions. These institutions may have a culture that is less legalistic in nature due to the mission of the institution, the characteristics of a liberal arts education, or a smaller bureaucratic structure.

Table 4 lists the number of times each legalistic term was found in the student conduct codes analyzed. Additionally, Table 5 lists the legalistic language found in the 20 conduct codes analyzed and also lists suggested non-legalistic language that can be used in place of the legalistic terms.

Implications For Practice

The results of this study have four implications for practice for university administrators.

Review of Student Conduct Codes

The results of this study show that 80% of the student conduct codes analyzed contained some legalistic language. This finding has implications for university administrators who write, update and maintain the student conduct code. First, including legalistic language could cause confusion for students about the formality and intent of the judicial process. Additionally, including legalistic language in the student conduct code could cause confusion about the

Table 4

Number of Times Each Legalistic Term Was Found in the Student Conduct Codes

Legalistic Term Used	Number of Times Found
penalty/penalties	122
guilty	67
testimony/testify	53
innocence/not guilty	18
student court	18
preponderance of the evidence	16
punished	9
plea	7
contempt	6
rebuttals	5
verdict	5
convicted	4
as defined by state statute or local ordinance/ [State] Code of Laws	3
Chief Justice	3
defendant	3
self-incriminate	3
Student Attorney General	3

Table 4

Continued

Legalistic Language Used	Number of Times Found
sustain	3
commit	2
subpoenas	2
trial	2
acquit	1
closing arguments	1
exonerating	1
oath of honesty	1
right of certiorari	1
sequestered	1
Student Counsel	1
swear and affirm	1

Table 5

Legalistic Language and Suggested Non-Legalistic Language to Replace the Legalistic Terms

Legalistic Language Used	Suggested Non-Legalistic Language
acquit/exonerate	found not responsible
as defined by state statute or local ordinance/ [State] Code of Laws	institutionally defined conduct codes
Chief Justice	hearing chairperson
closing arguments	final summary statements
contempt	responsible for behavior in a hearing
convicted	found responsible
defendant	accused or charged student
guilty/not guilty	responsible/not responsible
incriminate	statement supporting responsibility
issue subpoenas	written request of attendance
innocence/Innocent	not responsible
oath of honesty/swear and affirm testimony	provide or sign an honesty statement
penalty/ punished	sanction
plea	statement regarding responsibility
preponderance of the evidence/ beyond a reasonable doubt	substantial information/ more likely than not
rebuttal	opposing or responding statements

Table 5

Continued

Legalistic Language Used	Suggested Non-Legalistic Language
right of certiorari	written request for a case file
sequester witnesses	hold witnesses until presentation
sustain	uphold the decision
student courts/Student Supreme Court	student hearing panel
Student Attorney General/Student Counsel	student advisor
swear and affirm/take an oath of honesty	verify the honesty of statements
testimony/testify	account/information/summary of events
trial	hearing
verdict	decision

difference between a college hearing and a court of law. Administrators need to review their student conduct codes and remove all legalistic language. By removing all legalistic language, administrators can limit confusion and misinterpretation concerning college disciplinary procedures.

Additional Legalistic Words

While conducting this study, I came across additional words in the student conduct codes that were used in the Stoner & Cerminara (1990) model code and were considered to be non-legalistic. However, these words have legal connotations and could cause confusion between college discipline processes and courts of law. The additional words include affidavits, affirm, burden of proof, committed, cross-examine, evidence, modify, remand, reverse, and witness(es). Table 6 lists the additional legalistic words and suggested non-legalistic language that can be used in place of the legalistic terms.

Administrators may want to consider including burden of proof, cross-examine, evidence, and witness as legalistic terms when revising their student conduct codes. By eliminating these words from a student conduct code, administrators can reduce any confusion between their college discipline process and court proceedings. However, such revisions must be balanced with the need for clarity and plainspoken English.

Clarity of Student Conduct Code Purpose

Several institutions clearly distinguished that the purpose of the college judicial system is separate from a court of law. For example, Pub3 stated that

The College Judicial System is not a court of law; the rules of evidence do not apply. Hearings are designed to be educational and corrective rather than punitive. Students who demonstrate behavior that is found to be in violation of the College Judicial Code are

Table 6

Additional Legalistic Language and Suggested Non-Legalistic Language to Replace the Legalistic Terms

Legalistic Term Used	Suggested Non-Legalistic Language
affidavits	signed statements
affirm	approve
burden of proof	show
committed	engaged in alleged misconduct
cross-examine	ask questions of
evidence	relevant information
modify	change
remand	return the case
reverse	reject the decision or sanction
witness(es)	person(s) with relevant information

found to be 'responsible' rather than 'guilty,' and are given sanctions that are intended to assist in their development as responsible members of the College community. (p. 77)

All institutions should include this type of descriptive explanation about the distinct differences between student discipline and a court of law in the introduction of the student conduct code. This type of description would help eliminate confusion or ambiguities about the nature of a college discipline system and a court of law.

Academic and Social Conduct Codes

Half of the institutions in this study address both academic and social regulations in their student conduct codes. Of these 10 institutions, two were public, three were private, three were small, and two were large. All 10 of these documents were classified as non-legalistic with occasional legalistic words or phrases. The legalistic words and phrases may be present in the academic conduct codes because they have been carried on through the tradition of an honor system, which tends to be legalistic in nature. Administrators should consider the effects an honor system tradition may have on the current student conduct code.

Limitations and Implications for Future Research

As with any type of research, there are limitations to this study. Specifically, there are four limitations that could have influenced the results of this study including sample size, types of institutions in the sample, data collection procedures, and the types of conduct codes used in practice. Additionally, suggestions and tools for future research are discussed.

Sample Size

One limitation of this study is the sample size. For this study, I analyzed 20 student conduct codes. By limiting the number of documents analyzed, the results of this study cannot be generalized to the higher education institution population. Additionally, the results from the 20

student conduct codes may not be representative of student conduct codes throughout the country. Future research could include a larger sample size that could be generalized to the higher education institution population.

Types of Institutions in Sample

Another limitation of this study is the types of institutions included in the sample. For this study, I analyzed five conduct codes from public, private, small (FTE < 5,000), and large (FTE > 15,000) institutions respectively to address two research questions. By limiting the sample to institutions with a small or large FTE, institutions with a medium size FTE (FTE > 5,000 and FTE < 15, 000) were removed from the analysis on institution size. Further, the sample selection criteria omitted institutions that were not four-year institutions or were for-profit institutions. This sample restriction omitted institutions such as community colleges, tribal colleges, medical schools, or other specialized institutions. By limiting the types of institutions included in the sample to public, private, small, or large four-year, not for profit institutions, the results of the study cannot be generalized to institutions that are two-year, have a medium FTE, or specialized institutions. Thus, future research could include more types of institutions used in the sample to determine the types of language used in student conduct codes in community or technical colleges, for-profit institutions, or specialized institutions.

Data Collection Procedures

A third limitation to this study is the data collection procedures. Data for this study were collected online. A limitation of using online data is accessibility. Online data are easily altered from the format used by the researcher. Further the data may be accessible to the researcher during the data collection period then removed from the Internet at a later date restricting or making replication of the study impossible. Additionally, limiting the sample to institutions with

online conduct codes may have skewed the results. Future research could include data mailed to the researcher from the institution to ensure an institution, which does not have an online conduct code, is not omitted from the sample.

Types of Conduct Codes in Practice

This study may also be limited by the criteria used to determine if an institution had viable data. Verification of viable data was established by reading through the document to verify that it contained three sections for analysis (a preamble section, a conduct codes section, and a judicial procedures section). This criterion limited the conduct codes in this study to those with complete preambles, conduct codes, and judicial procedures. By limiting the study to institutions with complete student conduct codes, the results cannot be generalized to institutions with conduct codes that are considered incomplete by the study criteria. Future research could examine the types of student conduct codes in practice based on format and content rather than the language used.

Perceptions of Administrators

This study determined the types of language used in student conduct codes to be either legalistic or non-legalistic. Based on the types of language used in the student conduct codes, each document was classified as either non-legalistic, non-legalistic with an occasional legalistic word or phrase, or both legalistic and non-legalistic. Future research could examine the thoughts of administrators at the institutions used in this study to determine if they agree or disagree with the document classification assigned to their student conduct code. Additionally, future research could examine the perceptions of administrators on the effectiveness of their student conduct code based on the document classification assigned in this study.

Tools for Future Qualitative Research

I used three different tools during the research process that can be used in future qualitative research. First, I defined my units of analysis. By defining my units of analysis as specific words and phrases I eliminated gray areas and made all decisions during the process more objective.

Second, I used a confederate reviewer during the data analysis process to enhance trustworthiness. The use of a confederate reviewer verified the duplicity of the data analysis process. Additionally, the use of a confederate reviewer enhanced the trustworthiness of the data because each reviewer coded several units of analysis overlooked by the other reviewer.

Third, I incorporated checks and balances in the research process, which ensured the accuracy of the data and eliminated researcher bias. Researcher bias is inherent in qualitative research so incorporating as many checks and balances as possible in any research project will only enhance the trustworthiness of the data and eliminate many subjective researcher decisions.

Conclusion

Student codes of conduct are written direction for college administrators and students on what constitutes acceptable behavior based on the values and mission of the institution and are part of the campus judicial discipline process (Dannells, 1997). During the 1960s, institutions created legalistic judicial discipline processes in response to student rights, which mirrored courts of law by using legalistic language and procedures. Due to confusion and misunderstanding about college discipline, authorities on judicial processes have recommended that legalistic language be completely removed from campus codes (Pavela, 1979; Stoner & Cerminara, 1990; Gehring, 2001). The purpose of this study was to analyze student conduct codes to determine the extent to which college and university administrators have adopted Stoner

and Cerminara, Gehring, and Pavela's suggestion to remove legalistic language from their student conduct codes.

The study results show that only 20% of the institutions in the study had taken the advice of judicial scholars and removed all legalistic language. Thus, 80% of the institutions in this study have not taken the advice and continue to have at least some legalistic language in their student conduct codes. Therefore, the majority of the institutions in this study regardless of institutional type or size need to reexamine their student conduct codes and consider removing all legal terminology and language.

The most common legalistic terms found in the student conduct codes were penalty, guilty, testimony/testify, innocent/not guilty, student court, and preponderance of the evidence. Administrators can use the table of the most common legalistic terms found in this study as a resource when reviewing their individual student conduct codes to determine if it contains legalistic language.