A Phenomenological Examination of the Responses to Judicialization by College Student Conduct Administrators

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A qualitative study of twelve student conduct administrators sought to capture their lived experiences relative to the impacts of federal and state regulation, case law, the media, attorney encroachment, parental involvement, and the use of litigation to supersede traditional processes on their professional work and personal lives. The interviews invited participants to share personal narratives about their lived experiences and led to the discovery of seven themes pertaining to the judicialization of their work: (1) communication, (2) conservative decision making, (3) mental health concerns, (4) responding to perceptions of what student conduct is, (5) the role of campus legal counsel, (6) the shift from being student-centered to process-centered, and (7) impacts of students' attorneys. Findings revealed that although this phenomenon has created harms for these practitioners, it has also allowed them to develop strategies for wellness, self-care, and sustainability in the profession.

Keywords: College Student Conduct, College Administrators, Judicialization

Traditionally, the role of the college student conduct administrator, or student conduct officer, is to receive reports of misconduct allegations, meet with a student to understand their perspective on the matter, and evaluate all information to determine if a policy has been violated based on a particular institution's standard of proof (Dannells, 1997; Waller, 2013). When a student is found responsible for violation of policy, the conduct officer issues sanctions commensurate to the nature and circumstances surrounding the violation, its effect on the community, university interests, posture of the responding student, and the student's previous disciplinary history. Although sanctions may be perceived by students to be punitive, they are meant to be educational in nature, restore harms made to impacted parties, and address the health and safety of the community (Shook & Neumeister, 2015). Student conduct administrators typically work under the auspices of a college's or university's student affairs division, and frequently as a department within the dean of students office, although this varies by institution.

The last decade, however, has seen a significant shift in the practice of student conduct (Miller, 2018; Shook & Neumeister, 2015; Waller, 2013). This shift has been led by misportrayals of this work by the media, heightened national attention to the adjudication of sexual misconduct on college campuses, and the encroachment of attorneys into the disciplinary process. Student conduct administrators can be left unprepared for a work environment that is more legalistic than developmental and may experience a precarious mix of emotions as they navigate case law, federal regulations, scrutiny by senior level administrators, legalistic language, and interacting with lawyers against the backdrop of training that did not prepare them for such intense effort.

The encroachment of lawyers into the disciplinary process is a relatively new phenomenon that has emerged since the U.S. Department of Education's Office for Civil Rights (OCR) issued the Dear Colleague letter (Ali, 2011) that required complainants and respondents in Title IX-related cases be permitted to have an advisor of their choice—including attorneys—at their hearings. Previously unexplored in student affairs literature, this phenomenon is labeled herein as "judicialization" (Vallinder, 1994), a term borrowed from the political realm and interpreted within to describe the treatment of the undergraduate disciplinary process as a quasijudicial/legalistic system.

Purpose of the Study

The purpose of this study was to explore the impact of judicialization on student conduct administrators including the physical, emotional, and psychological reactions experienced in response to public scrutiny of their work. The study sought to uncover how concerns about litigation directly affect student conduct administrators in both their personal and professional lives. To understand the nature of these lived experiences, the researchers employed a phenomenological approach, which allowed them to "explore not only what participants experience but also the situations and conditions surrounding those experiences" (Padgett, 2016, p. 41).

Research Questions

Given the purpose of this study, the following research questions were developed in an effort to gain greater insight into how student conduct administrators perceive judicialization affects their personal and professional lives:

1. How do college student conduct administrators experience the impact of judicialization on their professional work?
2. How do college student conduct administrators experience the impact of judicialization on their personal lives?

Literature Review

The History of Student Conduct Administration

The colonial era's disciplinary systems within colleges and universities functioned as that of parent and child, with many students under 18 years old (Dannells, 1997). College presidents or their designees managed student behavior under *in loco parentis*, in which the university had the authority to discipline as a parental figure. Following the Civil War, a shift occurred whereby increased attention was paid to students' intellectual development (Dannells, 1997). Students were expected to take ownership of their decisions rather than accept punishments for their behavior. In this effort, the work of student discipline was reallocated to trained administrators, which Dannells (1997) suggests was an attempt by college presidents to avoid retribution for harsh punishments.

These new administrators discerned that student discipline was more than meting out punishment, and that students would benefit from holistic, thoughtful, and personalized attention to each matter. This philosophy was affirmed by the American Council on Education Studies in the landmark document *The Student Personnel Point of View* (American Council on Educational Studies, 1937), which acknowledged the role of early student affairs workers as legitimate and integral to a student's holistic development.

College and universities soon delegated some adjudicatory responsibility to hearing boards of both students and staff members (Sims, 1971). With increased student activism in the 1960s and 70s came the expanded notion of a student's right to due process in disciplinary hearing procedures and more formalized codes of conduct (Lowery, 2011). Due process shortly became the nucleus of campus discipline, particularly following the historic decision of *Dixon v. Alabama State Board of Education* (1961). *Dixon* not only confirmed due process in public college and university disciplinary proceedings as a student's right, but also motivated institutions to create more formal, legalistic judicial systems to adjudicate misconduct (Baldizan, 1998).

Federal Legislation and Guidance

Clery Act

The 1990 Crime Awareness and Campus Security Act, later renamed the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery, Clery Act), was passed by Congress to increase transparency about crime on campus and issue timely warnings about serious or ongoing

threats to campus. It is perhaps this law that has been the most intrusive in student conduct work, as it evaluates student behavior which may be considered a violation of law in addition to a violation of campus policy. Conduct administrators who also manage Clery statistics must have intimate and up-to-date knowledge of several legislative acts and laws that govern what is reported, an added burden when they are also considering behavior in the context of campus behavioral expectations that may not necessarily rise to the level of a violation of law. The nature of Clery compliance requires a true collaborative effort among campus constituencies including law enforcement, campus security, residence life, student conduct, among others.

Title IX

Title IX of the Educational Amendments of 1972 states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." OCR's 2011 Dear Colleague Letter reaffirmed a college's role in adjudicating reports of sexual misconduct in which a student is the alleged perpetrator (Ali, 2011). The letter, applicable to all institutions that receive federal financial aid, compelled colleges to write new procedures to address sexual violence on campus (Miller & Sorochty, 2014) including lowering the standard of proof in sex- and gender-based harassment hearings, requiring an institution to apply equal appeal opportunities to both parties involved, and proposing an accelerated adjudication process with a 60-day limit. The enhanced requirements for disciplinary proceedings pertaining to sexual misconduct, along with increased media scrutiny, further propelled campus conduct offices toward establishing a quasi-judicial process which many argued campuses were ill-equipped to facilitate themselves (Winn, 2017).

In 2017, under the direction of Secretary of Education Betsy DeVos, OCR released a new Dear Colleague letter that withdrew the guidance set forth in 2011 (Jackson, 2017). Recognizing that the earlier regulations were circulated without the proper rulemaking procedures, the 2017 letter allowed schools to choose the standard of proof to find respondents responsible for sexual misconduct, suggesting they use the same standard as is used in other student conduct cases on their respective campuses (Office for Civil Rights, 2017).

A Student's Right to Counsel

The rulemaking sessions of the 2014 reauthorization of the Violence Against Women Act detailed the parameters for parties' advisors in sexual misconduct cases, permitting students to have "an advisor of their choice" at "any related meeting or proceeding" (Violence Against Women Act Negotiated Rulemaking Committee, 2014, p. 2). This includes attorneys, whom even student conduct professionals have asserted can be valuable supports for students as they navigate the complexities of the disciplinary process (King & White, 2016). However, courts have held that non-sexual misconduct cases do not require legal representation for students (*Gorman v. University of Rhode Island*, 1986; *Wasson v. Trowbridge*, 1967) and that when attorneys are permitted, institutions can limit their participation in hearings (*Osteen v. Henley*, 1993).

In 1975, *Gabrilowitz v. Newman* determined that counsel could be permitted at a campus disciplinary hearing when the student respondent is facing both criminal and disciplinary charges

for the same behavior (Weisinger, 1981), but only to protect the student's due process interests at the criminal hearing and that the student did not have a Constitutional right to counsel for the campus hearing. The courts have also held, following *French v. Bashful* (1969), that if the institution utilizes counsel in adjudicating the matter, a student may have the right to counsel as well. While conduct administrators' work previously focused inviting students to take ownership of their decision-making and clarify their values system, it has shifted significantly as the presence of lawyers in the disciplinary process has deepened its semblance to a judicial proceeding.

The Lived Experiences of Student Conduct Administrators Today

There is little research in regard to how the judicialization of college discipline has impacted the personal lives and professional practices of conduct administrators. Waller (2013) reinforced the problem of the delicate balance between the developmental needs of the student, institutional priorities, and legal requirements. Framing the problem as one of competing interests, Dowd (2012) wrote, "Politics, institutional reputation, fear of litigation, and financial ramifications of pending disciplinary actions can further undermine ethicality" (p. 5). Layering in the components of legislative guidance, case law, crisis management, attention to First Amendment rights, and accommodating students with disabilities amongst an increasingly litigious climate makes the profession of student conduct administration ever more precarious.

Caplan's Phases of Crisis

Because this study sought to uncover the specific emotional, practical, and physiological responses to the judicialization of student conduct, it was based in psychological theory that had been used previously to understand how physicians manage their reactions to litigation and malpractice stress. More specifically, Caplan's (1964) phases of crisis has been used in the medical literature to examine the ways in which doctors have reacted to malpractice suits. It was applied similarly to this study to help illuminate the various responses that student conduct administrators may have to the increasingly legalistic landscape encroaching on the university disciplinary process.

Caplan's (1964) phases of crisis provide a structure for the various responses a student conduct officer may have to the increasingly legalistic climate of the profession. Grounded in the belief that problem-solving skills can increase resistance to stress, the four phases outline the rise in tension, an overburdening of coping mechanisms, lingering dysphoria, and coming to terms with the problem. In a report on physicians practicing in rural regions in the United States, Bushy and Rauh (1993) compiled the human response characteristics to crisis from earlier literature, categorized them into Caplan's phases, and applied them to professional litigation, i.e., malpractice suits. The phases of crisis may serve to validate student conduct professionals' responses to litigation and ultimately suggest strategies for intervention or relief.

Methodology

To ascertain the scope of the problem pertaining to the judicialization of student conduct, this phenomenological study was the qualitative strand of a mixed methods inquiry which used both

a written instrument and personal interviews to provide a breadth of previously unexplored information. The Concerns About Litigation Survey for Student Conduct Professionals (CALSSCP) was developed using Brodsky and Cramer's Concerns About Litigation Survey (2008) as a foundation, with additional questions adapted from Wilbert and Fulero (1988), Benbassat et al. (2001), and Fileni et al. (2007). Between October 24 and November 11, 2019, 350 respondents fully completed the CALSSCP as administered through Qualtrics. The quantitative strand and related findings are reported by Glassman and Lewis (2022). Approximately 150 participants indicated interest in being interviewed.

Noting that the response rate for interview interest was evenly distributed between male- and female-identifying participants, twelve respondents were selected at random under the following demographics: six males and six females; three men and three women whose offices adjudicate matters of sex- and gender-harassment and three men and three women whose offices do not. Only 12 of the 350 survey respondents identified as non-binary/genderqueer/other. Survey participants were not asked to describe their racial identity.

Qualitative Data Collection

This study followed a phenomenology approach to understanding the impacts of judicialization on student conduct practitioners. Phenomenological research connects the experiences of several individuals to find a common meaning or thread among them (Creswell, 2012) and often involves data collection via interviews (Bevan, 2014). The goal of the researcher is to capture the "essence" (Creswell, 2012, p. 96), or the "very nature of the thing" (Van Manen, 1990, p. 177) that is shared by the study participants.

The questions from Miller's (2018) interviews of student conduct and Title IX administrators involved in OCR inquiries formed the basis of the semi-structured interview format. To gain a deeper understanding of the phenomenon of judicialization, the interview questions offered the participants space to freely discuss their perspectives and experiences on specific topics in a confidential setting. The researchers spoke with each participant for around one hour, obtaining consent to proceed and record the conversation. The participants' identities were kept anonymous; their study pseudonyms align with their gender identification. See Table 1 for participant demographics.

Positionality of the Researchers

Before beginning to analyze the data, the primary investigator was required to take notice of and set aside personal knowledge, experiences, and beliefs about the phenomenon being studied in a practice Husserl (1970) called "bracketing." While it is impossible for a researcher to completely remove himself or herself - and the preconceptions they hold - from the study subjects, it is incumbent upon the researcher to be aware of their attitude toward the matter at hand and self-conscious of the stereotypes, beliefs, and worldviews that could potentially influence the interpretation of data. The findings presented herein are therefore one possible interpretation of the primary investigator's standpoint as a mid-level conduct administrator with thirteen years' experience.

In the present study, the primary investigator identified several factors that could have influenced the interpretation of the participants' reported experiences during the interviews. First, the primary investigator's knowledge of the intensity of the professional work of the participants could have influenced their interpretation of the interview data. Next, the primary investigator had personally experienced immense institutional pressure to be more cognizant of litigation threat and respond with caution to any pending disciplinary matter. This certainly informed the nature of this study and more specifically, shaped the questions that were asked in the interviews. Being aware of these biases should have allowed the primary investigator to better listen to the participants and study the data to find common themes and experiences beyond those already acknowledged. To aid to further mitigate any potential bias by attempting to infuse a more objective perspective, a former university student affairs administrator with the prerequisite knowledge of student conduct matters and current university faculty member in educational leadership was enlisted as a sub-investigator. The sub-investigator reviewed and provided feedback regarding all questions developed for the interview protocol, the data collected, and the primary investigator's interpretations of the data.

Table 1

Demographic Information of Interview Participants

Participant Name	Institution Type	Gender	Does Office Adjudicate TIX Allegations?	Geographic Region
Alice	Two-year, public	Female	Yes	Midwest
Bradley	Four-year, public	Male	Yes	Southeast
Carl	Four-year, private	Male	No	Midwest
Deborah	Four-year, private	Female	Yes	Northeast
Elizabeth	Four-year, public	Female	No	Southeast
Francine	Four-year, private	Female	No	Northeast
Grace	Four-year, public	Female	No	Northeast
Henry	Two-year, public	Male	Yes	Mid-Atlantic
Isaac	Four-year, private	Male	No	Southeast
Jacob	Four-year, public	Male	Yes	Southeast
Kenny	Four-year, public	Male	No	Southeast

Linda	Four-year, public	Female	Yes	Mid-Atlantic

Findings

Interviews were conducted in early 2020. Notably, the earliest of these took place nearly four months before the Department of Education published its Final Rule on Title IX on May 6, 2020, which solidified new expectations for educational institutions in addressing matters of sexual harassment and misconduct on campus. The pending regulations in the interim months before the Final Rule, which appeared to roll back protections for complainants and increase procedural rights in favor of respondents, were cited by many interviewees as a pressing concern impacting their professional work.

Interviews were transcribed into a text file and uploaded to NVivo, where they were coded using an inductive approach to highlight similarities across participants (Thomas, 2006). Seven themes emerged pertaining to the impacts of judicialization on their professional work and personal lives, along with participants' suggestions for reducing the impacts of judicialization, as explored in the following sections.

Communication

Nearly all interviewees indicated that the amount and methods of communication with others changed significantly following increasing judicialization of student conduct work. The implication that a student or their family would expose alleged cracks in the disciplinary process was profound for these practitioners. All seemed aware of the ways in which being unable to respond to public comment or scrutiny affected and formalized how they shared information with students. Francine explained, "[I]t's not fun to have conversations with students where they're just, you know, that like every word out of your mouth is going to be held against you."

Almost every participant reported that judicialization seemed to change the fundamental nature of how they communicated with students, many acknowledging that they were cognizant of how carefully they selected words and sought to ensure that any communication was accurate, detailed, and even reviewed by a peer or supervisor, as exemplified by both Deborah and Henry referred to "crossing Ts and dotting Is" in an effort to pay close attention to what is in their written communication.

Conservative Decision-Making

Participants highlighted how judicialization led to a more conservative application of policies and processes, often retreating to making a decision that benefits the student and reduces the liability for future litigation. Alice said, "I think it is mostly just a very conservative workplace, if that makes sense…I'm making an educational decision or am I making a decision that I know won't be argued against either by the students or by my higher-up." Further, embedded in the theme of conservative decision-making is the fear of making mistakes. Several participants shared feelings of worry or anxiety over being called out by someone for messing up; for example, Francine noted a concern that a mistake in a letter could get blown out of proportion, which

would interfere with the educational component of the disciplinary process. This theme permeated into the matter of sanctioning as well. Carl explained that while disciplinary action is private, the implicit message surrounding the sanction seems to be a known entity. Instead of acting with the finality of expulsion, Carl said, his institution will issue a lengthier period of suspension than what a less egregious policy violation might warrant, sending the message that his university would never truly permanently separate a student from the school and that at some point, a student might be welcomed back.

Mental Health Concerns

By far, the widest-reaching theme to emerge from the twelve interviews was that of mental health concerns, surfacing with eleven participants. While some named the problem as simply stress, others identified medical diagnoses or symptoms that they believed were a direct result of or exacerbated by their work in student conduct, including post-traumatic stress disorder, anxiety, depression, weight loss, and sleep deprivation.

Several pinpointed the nature of student conduct work and its differentiation from other student affairs fields as the source of mental distress in that student conduct is the one department that can impact a student's standing at their institution of higher education. Linda explained that a conduct officer typically must deliver difficult news to a student and help them "imagine their life in a different way than they thought," which is "hard enough." She added that the influence that senior administrators may have over a conduct decision and how it impacts the sense of autonomy a conduct practitioner might have in the process makes it even more stressful. Three practitioners, Deborah, Jacob, and Isaac, whose offices all handle Title IX adjudication for their respective institutions, reported newly detected problems involving personal intimacy. Jacob shared that he stopped watching *Law and Order: Special Victims Unit* an NBC crime drama spin-off that concentrates on the investigation of sexual assault crimes, indicating that he is "in this work all the time," and that the show sometimes portrays work similar to his own. For Deborah, the weight of the work infiltrated her life much more directly, impacting her sex life: "Sometimes there are days that you spend a whole day thinking about people being hurt in intimate ways and you come home, and you don't want to be touched."

A conduct administrator's deep concern for students can create conflict when a student appears litigious or it seems like the public eye is scrutinizing one's every move. Elizabeth remarked that in an appeal process, a student or organization would use that opportunity to fabricate "just completely blatant lies about my practice or how I've engaged with students," creating a sense of frustration as students and their attorneys attempt to resolve problems by going above her. Alice, Carl, and Kenny shared experiences of deep social-emotional impact, some to the point of deep depression and sadness. Alice noted a sense of vicarious traumatization resulting from working with students involved in sexual misconduct matters.

Responding to Perceptions of What Student Conduct Is

Elizabeth alluded to the fact that senior administrators at her own institution were not fully engaged in understanding what her role is and the processes by which a student may be issued disciplinary action. This, too, was a highly discussed topic by 10 of the 12 participants. Many of

the interviewees targeted the media for skewing the truth, presenting only a narrow segment of a story, or misrepresenting the college disciplinary process entirely. Deborah noted that many people's opinions on how student conduct is supposed to operate are based in movies "where the dean is always the bad guy," or they "come in expecting a courtroom." The interviewees alluded to the fact students only take to the media when they feel wronged by the process, not just by a negatively impacting sanction, but even by the mere finding of responsibility for violating policy.

There was a shared perspective by five of the interviewees reflecting on their own expertise and opinions by conduct outsiders about their ability to facilitate disciplinary processes. Kenny noted that several professionals around him suggested he get a law degree to become proficient in student conduct work, despite over 13 years of experience in the field following a master's degree and later pursuing a PhD. He explained: "I want to show how people with a student development background as opposed to a legal background can be really impactful in this work." Deborah and Henry both expressed frustration that they are not seen as subject matter authorities while pointing to general counsel and the vice president of human resources, who are often called upon for their student conduct "expertise" but who are not immersed daily in student affairs work.

Some of the participants discussed the spotlight shone on sexual harassment and campus sexual misconduct through the #MeToo movement as challenges to a fair and impartial process, untainted by media influence. Alice reflected on the double-edged sword nature of the increase in campus reporting of such behavior: students come to campus more knowledgeable of what sexual consent is, but because of celebrities getting away with sexual harassment, students were more likely to feel that their perpetrator would as well. That, coupled with the public's constant scrutiny of whether campuses should even adjudicate sexual misconduct at all, led to a sense of hopelessness for ever having a semblance of a fair process.

The Role of Campus Legal Counsel

Almost all participants reported that their offices maintained relationships with their institution's attorneys and connected with them regularly regarding adjudication of disciplinary matters. Alice and Kenny both noted the harmful impacts of counsel changing a sanction or interfering in the disciplinary process, and not just by violating the written process for the adjudicating of cases (and therefore increasing a school's liability to be sued in a different, subsequent conduct matter). In interfering with the conduct body's decision-making or the appellate process, attorneys also negatively impact the staff member's self-esteem and sense of competence.

The interviewees reported varying levels of communication with their campus attorneys. Linda said that "I feel like I spent a lot of my days consulting with our general counsel's office to make sure that I am thinking of every angle I should be thinking of." It appeared commonplace that a conduct officer would touch base with counsel regarding an outcome before disclosing it to the responding student or organization on high-profile or serious cases. Deborah, who had worked in student conduct for over a decade, noted: "The follow up that I do in terms of communicating with my supervisor and our general counsel about what was said, what the concerns are, what the decisions are – and all of that has increased significantly over the last,

maybe five or six years in particular." Francine seemed to worry about the impacts of what it means to have to bring in campus counsel, perhaps unnecessarily intensifying the case at hand. Jacob appeared exasperated at the need for his campus' general counsel to be involved any time a student had a lawyer present: "I have to then have one of the two lawyers that we have on campus be present at a student conduct hearing for an alcohol violation."

Other conduct officers were more comfortable bringing campus counsel into conversations pertaining to disciplinary matters. Bradford noted that his campus's general counsel had a "dedicated student affairs staff member." He said, "I think we have a really good relationship with our legal office, so if I ever find myself in a situation where it feels like a more judicial case, I don't ever hesitate to touch base with my supervisor and bring in legal if we need to." Isaac explained that while there is a good relationship and while counsel is easily connected with for "big threat" situations, he was "not empowered in my role to voluntarily contact our lawyers, so that already has to go up a chain to be activated." There seemed to be a common thread about the seniority of a conduct staff member and their ability to have direct access to counsel.

Student-Centered v. Process-Centered

Eleven of the 12 interviewees recognized that judicialization seemed to be responsible for causing a shift in the sensibilities of the conduct process moving from being developmental, educative, and formative to focusing intensely on following procedure, being cautious of what is communicated to the student, and avoiding litigation. The participants appeared to agree with Carl's assertion that "whenever an attorney comes involved, even though theoretically it doesn't change the process or change anything, I think, in all reality and all practicality, it changes everything." Alice remarked how she "can't have a real conversation with a student [when] there's an attorney sitting there." She inferred that she couldn't holistically address the student's well-being because the attorney would misinterpret any good intentions.

Grace, Kenny, and Isaac each used the word "adversarial" to describe the feeling when an attorney enters into the conversation. While they recognized that the law, under the 2011 Dear Colleague letter and persisting through the 2020 Final Rule, permits a student to have an advisor of their choice in cases related to sexual harassment, their full involvement in campus disciplinary processes does not serve well to separate out the semblance of a courtroom-like proceeding from one that was originally designed to be educational.

The Impacts of Students' Attorneys

When students bring counsel into the disciplinary process, the impacts on the conduct administrators can be both positive and negative. Bradford reported that sometimes a student's attorney can assist with the disciplinary process, particularly in the case of a mutual agreement or resolution in which the attorney helps the student acknowledge that the evidence pointing to a policy violation is rather clear. This can serve to support the authority of the conduct officer. Henry concurred, suggesting that sometimes attorneys are "able to talk a little bit of sense into the student to take some responsibility."

But frequently, interviewees found lawyers to be an interference with the educational and developmental aspects of the disciplinary process. Carl explained that the presence of a lawyer fundamentally changes the spirit of the process. Elizabeth, who works at an institution with a student-run honor system, noted that she typically interacts with attorneys at the appeal level, and at her school it is mainly student organizations who retain counsel for their disciplinary matters. She added that while there are many student organizations that have their own counsel through their national headquarters (e.g., fraternities and sororities), these groups are often calling on a local alum who may be a tax or real estate attorney (and not trained in education law) to help them with their grievances.

Several of the participants found that students' attorneys are disrespectful to campus professionals. Deborah reported she felt bullied before she learned to feel empowered to "keep the lawyers in their places" and stand up to them. Grace shared how she had received some intimidating email correspondence from lawyers who would threaten her credentials and her ability to do her job because she is an educator and not an attorney, inferring that they believe the disciplinary process should be even more legalistic. Jacob noted that the job can be harder for conduct administrators in those states that permit students to have full legal representation in campus disciplinary proceedings.

The topic of students' attorneys is inextricably linked to their accessibility and affordability. Half of the interviewees mentioned the disparities between those who can and cannot afford representation or the resulting discrepancies of treatment by the institution. Francine recognized the population differences between her former employment at a small public technical college and "a private institution where most of these folks come from pretty well-off backgrounds." Alice shared this sentiment, "because I know that not every student can afford an attorney…And so it's really hard for me, too. It's like if a student has an attorney come in, their sanctions shouldn't be any different from a student who didn't have one come in."

Reducing the Impacts of Judicialization

Perhaps most telling from the twelve interviews are the numerous strategies the participants identified in helping themselves feel less impacted by judicialization. These can be sorted into two categories: supporting the practitioners through their professional work and through their personal lives. The strategies appeared to be evenly distributed between the two classifications.

Two-thirds of the interviewees reported that having a supportive supervisor or colleagues who understand how judicialization might affect a conduct practitioner can make a profound difference in how deeply those forces are felt, and that a reliable, sympathetic team can even help to absorb some of the impacts. Isaac reported that he and his supervisor schedule time together in advance of hearings that might be "particularly draining or…difficult" to reflect on any road bumps or just decompress. Deborah, who is the sole conduct practitioner at her institution, got the support of her supervisor after she "finally had kind of a breakdown" from a particularly difficult hearing. The supervisor helped build in additional personnel supports for the day of a hearing to assist with logistics. Jacob said that because his campus attorney is also a former social worker, "she gets it," and as the director of his own office, he acknowledged "the impacts of helping other folks to manage what I know are impactful situations and taxing

situations, both professionally for them, but also then knowing what's happening with them as people."

Kenny and Francine pointed to the power of mentors who do not work within their institutional spaces. Francine said that "having a pal at another institution you can call up" and get a different perspective on a conduct case can be a useful tool to "to let the stress sort of roll off your back a little bit more." Kenny shared that he connected withs an alumnus of his doctoral program because they share similar identities, who, Kenny said, "as far as self-care, he really keeps me focused on what the important thing is. He really is getting me."

Participants also noted that a connection to the broader student conduct community and keeping up with law and policy updates helped them to feel more comfortable with the legalistic nature of their work. Three pointed to the benefits provided by Facebook discussion forums specifically for student conduct practitioners and the Association for Student Conduct Administration (ASCA) listserv. Alice and Deborah specifically referred to the ASCA Women and Student Conduct Facebook group as a safe space and "a great resource" in which they can ask for advice. Five of the interviewees said that reading current case law allows them to feel better prepared to manage some of the legalistic aspects of their work. Jacob reported that a relevant case in his regional circuit's Court of Appeals informed his decision-making in a recent campus disciplinary hearing in which he otherwise might not have taken the right steps.

There were several strategies the interviewees noted that helped them to reduce the impacts of judicialization by setting limits on the scope of their work and taking a positive mindset approach to compartmentalizing it. Jacob and Francine talked about how excluding certain responsibilities like serving on a behavioral intervention team or in an on-call duty rotation for the institution allowed them to lift the weight of performing additional labor.
Francine said, "Taking that off the plate, I'm not dealing with as much sort of heavy emotional burden and [that] actually has contributed greatly to my satisfaction." Isaac found it helpful to leave his office and work from a different space on campus.

Kenny reported that "preparing yourself or being aware of the litigious nature" of the work beyond the typical "one law class every [student affairs] master's student takes" can help a conduct practitioner "be a defensive professional." Similarly, Grace and Isaac used psychological reframing to change the meaning of what was happening to them in their work. Grace said that while it does not always change her feelings, she works to reframe her thinking so that she can understand it better. Isaac explained the mental process he went through when he got his first litigation hold. While he had "a lot of anxiety that came with that, specifically what it meant," he was able to identify a "higher anxiety moment" from his past, which reduced his stress levels about that case.

Discussion

As students have come to view their higher education as a commodity and their relationship with their universities as contractual, student conduct administrators have come under intensifying scrutiny as executors of that contract. To some extent limited in their capacity because of institutional policies for student behavior and those federal laws and statutes, conduct practitioners increasingly have been accused of the unfair treatment of students, inappropriate application of policy, and abuse of their power. On their end, conduct officers have felt the

immense pressure of having their work regulated by federal law, exasperated by the ever-shifting climate and pendulum swing that seems to come with each new presidential administration. The media, in sensationalizing sexual misconduct lawsuits in which accused students sue their institutions for failure to follow due process, construct a singular narrative of vengeful conduct administrators to which the practitioners are unable to respond because of educational record privacy laws. This in turn amplifies the psychological impacts on those practitioners, affecting everything from the language they use in an email to a student to their intimate partner relationships.

This study sought to identify common threads among the lived experiences of student conduct administrators as they pertain to impacts of judicialization, public scrutiny, the encroachment of students' attorneys, and interference by senior administrators into the disciplinary process. Contextualizing the interviews of twelve such practitioners within the landscape of student conduct history, evolving legislation and case law, and previous studies revealed a deep concern by the study participants for expectations of perfectionism, diluted educational outcomes due to an emphasis on process, and severe impacts on mental health. For example, the interviewees reported, dialogue with students can be inhibited by judicialization. When attorneys become a part of the campus process their simply being present tangibly changes the character of the interactions thereafter. Grace reported "I think just the ability to have that educational relationship with a student is markedly different when attorneys are involved." It may be inferred, then, that it is not the strictness of process itself that impacts a conduct practitioner's ability to make connections with students, but the heightened sense of being under observation and being held exactingly to those procedural expectations by attorneys that changes the atmosphere for student conduct administrators.

Further, although the study group was limited to twelve, the researchers found that gender differences may play a role in how conduct administrators respond to the stressors of their work. Female interviewees, in general, spoke more frequently and in depth than men about how the threats of their work damaged their health, relationships, perceptions of their job, and feelings of self-efficacy. They detailed specific ailments and pinpointed specific scenarios in far greater depth, talking about lack of sleep, weight loss, depression, anxiety, loss of interest in intimacy, and exhaustion. For example, while Deborah reported how her first several cases at work led to not sleeping and not eating, Isaac said that when he got his first litigation hold, he "wouldn't say [he] lost sleep." Such illustrations complement the quantitative study conducted by Glassman and Lewis (2022), which indicate that female-identified conduct administrators appear to experience the impacts of judicialization more significantly in the realm of their personal lives.

Additionally, interviewees reported numerous experiences that did not seem to align with their expectations of what would actually take place in their professional work. Citing such examples of students using litigation to escape accountability and avoid the formal consequences of one's behavior, worry that a single email could be misinterpreted and held against oneself, and going over an administrator's head to their supervisor or even a vice president, they noted that their professional preparation did not prepare them for the day-to-day realities.

Overall, there is a striking parallel between the critogenic ("law-caused;" Gutheil et al., 2000) harms of litigation threat and legal action that manifest in both physicians and student conduct administrators. Bushy and Rauh (1993) expose the cycles of Caplan's (1981) phases of

crisis as experienced by litigated rural physicians. It is not a far stretch to translate the expressed concerns of doctors in their report to those described by conduct practitioners. The first phase, impact, may bring to light the practitioner's typical coping mechanisms and if these are not adequate, the event becomes more central in the life of the practitioner and looms large amidst both their professional work and personal life. For example, Isaac had reported that when he received his first litigation hold it created a lot of anxiety for him regarding "specifically what it meant." The search for meaning in the litigation is potentially fruitless or else could lead to more emotion-focused coping, forcing the conduct practitioner to review countless communications and interactions in their head that may never yield a reason for the lawsuit or threat.

Disorganization is the second phase and is the one in which the aforementioned mental health concerns are most likely to emerge, according to Bushy and Rauh (1993). This is also the phase in which practitioners explore using coping behaviors beyond their typical toolbox. Many of the interviewees spoke to using therapy or prescribed medications, but others like Jacob, who reported a worsening "general addiction to caffeine" since working in student conduct, have engaged in unhealthy coping techniques. Several of the interviewees have successfully worked through Caplan's recovery phase, using "wholesome coping tools" (Arimany-Manso et al., 2018) to work through their stress. Elizabeth noted that having a supportive boss with whom she could speak authentically was of tremendous value in working through the problems of unwarranted conduct hearing appeals or insults to her character that both she and her boss knew not to be true. Others cited that the ability to talk openly with other conduct practitioners going through the same experiences in Facebook groups like Student Conduct Professionals and the Association for Student Conduct Administration listserv helped them to not feel as lonely or isolated.

Finally, the reorganization phase involves an integration of the disruptive event into one's "post-crisis normal" (Bushy & Rauh, 1993, p. 60). The litigation becomes an event that, to some degree, has been mastered and that will inform future approaches and coping mechanisms to other stressful events. Deborah had reported that she used her early interactions with students' attorneys, which she first found intimidating, as a development opportunity and learn from colleagues how to "feel more empowered to keep the lawyers in their places."

Implications for Practice

It remains true that many college student personnel or student affairs master's degree programs have little more than a single semester's worth of higher education law in their curricula, and coursework is unlikely to expose a budding professional to the everyday realities of the student conduct profession. It is therefore incumbent upon individual institutions or the Association for Student Conduct Administration (ASCA) to offer regular, current training for new professionals that realistically addresses the judicialized climate of the profession and provides support in their first few years in the field. Such a training would be appropriate for the Mary Beth Mackin Foundations of Professional Practice Track at ASCA's annual Donald D.
Gehring Academy, a summer immersion workshop featuring several content tracks, but this study makes it clear that professionals on all levels of experience would benefit from this information.

Perhaps most revealing about this study is that throughout the course of interviews, participants indicated that the mere acknowledgement of this phenomenon as a legitimate study

validated their experiences as potentially traumatic, impacting their sense of self and of mattering – to students, the profession, and the institution. This seems to demonstrate a shared culture of belief of self-worth, and simultaneously one that demoralizes practitioners as result of taking away their ability to independently resolve disciplinary matters without outside influence. The research conducted in this study also demonstrated a need and desire for conduct administrators to be able to talk either with one another or a mentor about their experiences to gain validation, advice, support, and community.

The researchers noted an increasing use of the student conduct Facebook groups, specifically ASCA Women and Student Conduct and Student Conduct Professionals, to vent about work problems that were clearly the result of the judicialization of the practice. Such posts frequently receive more comments, including those that which to express while they are unable to offer solutions, they stand in solidarity with the original poster. While each of these groups offer a way for an individual to post anonymously, there appears to be greater value in real-time conversation with a skilled, knowledgeable colleague, such as there was during the semi-structured study interviews. ASCA should provide space at regional and national conferences for individuals to talk openly about their concerns.

Future Research Recommendations

Based upon the findings of this study, future research is recommended to further explore the impact of judicialization on student conduct administrators. Of note in the results were that female-identified student conduct practitioners self-report their experience of the impacts of judicialization in both their personal and professional lives at a more severe level than their male-identified colleagues. The bulk of participants in the studies by Charles et al. (1984; 1985; 1988) on physicians' litigation stress were men, thus limiting the potential for insight into the difference in impacts of litigation stress on these two demographic subgroups. Future research should addresses the spectrum of gender identification and workplace roles, including a greater sample of non-binary participants, to determine if any seem to be more resilient to the effects of judicialization and the reasons why.

Amid the COVID-19 global pandemic that significantly affected most every aspect of daily life, student conduct administrators continued to perform their responsibilities under demanding physical, social, and psychological conditions, often in a virtual environment working from home. The result of judicialization's impact combined with those of the pandemic may be worth further exploration. A survey administered by the National Association of Student Affairs Administrators (NASPA, 2021) in June 2021 found that many higher education student affairs professionals, including student conduct administrators, are at high risk for burnout due to stress and that they no longer feel valued by their institutions. Throughout the United States and beyond, significantly high levels of employee departures throughout numerous sectors of the workforce, dubbed the Great Resignation, are being attributed to burnout, increased pay, and a desire for better working conditions (Morales, 2022). Future research should gather data on job satisfaction levels of student conduct administrators, including factors influencing their responses such as the effects of judicialization. Exit interviews with outgoing student conduct administrators should inquire about judicialization's influence on their decision. The results of such studies may provide greater insight into the extent which the judicialization of student

conduct and the resulting stress are leading to the departure of student conduct administrators from the field.

Conclusion

The impacts of the judicialization of student conduct administration are wide and far reaching and the work, while often rewarding, is frequently frustrating, legalistic, and isolating. This study revealed that conduct administrators are not fully equipped after their graduate school programs to manage the public scrutiny of their private work or to cope with the dissonance of a professional workplace that often values precision, power, and privilege over moral development, growth, and learning. That conflict is intensified by the encroachment of students' parents and attorneys into the disciplinary process, who complicate the goal of education with rigorous examination of every email sent, every word spoken.

As this study concluded, campus conduct professionals were in the throes of complying with the Final Rule on Title IX issued May 6, 2020, which sent them into a frenzy to frantically rewrite student behavioral codes within 100 days amidst the backdrop of a global virus pandemic that required nearly all campus administrators to work at home for a period of time. As a presidential election year, 2020 presented the possibility of a new administration and another revision of Title IX interpretation. What is almost certain is that federal regulation of campus conduct policies will fluctuate periodically, and practitioners must be equipped to handle these changes immediately and effectively. For the preservation of their personal relationships and home life, it is also incumbent upon student conduct practitioners to know how to deal with the stresses that come with working in this field. The research and recommendations presented herein are simply the beginning.

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