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## **Campus Alcohol and Drug Abuse and the Higher Education Amendments of 1998** By: Kimberly A. Sluis

Alcohol abuse among college students poses a major challenge for university administrators across the country. Many studies have documented the high levels of alcohol abuse and the severity of problems associated with college drinking. More than 85% of students surveyed by the Core Institute in 1999 reported having consumed alcohol in the year prior to participating in the research (Core Institute, 2000). The Harvard School of Public Health College Alcohol Study found that "nationally one in five college students is a frequent drinker" (Wechsler, Molnar, Davenport, & Baer, 1999, p. 247). Often times college student alcohol consumption is not only frequent but also heavy. Binge drinking is a common activity for a significant percentage of college students. For the purposes of the Harvard Study, binge drinking was defined as the consumption of five or more drinks in a row for men and four or more consecutive drinks for women (Wechsler, et al., 1999). Wechsler, et al. (1999) reported a 42.7% binge-drinking rate among college students. In addition, the Core Institute (2000) reported that 46.9% of students surveyed had consumed five or more drinks in one sitting at least once during the two weeks prior to completing the 1999 Core alcohol and drug survey.

Many student problems have been linked to excessive alcohol consumption. According to data from the 1999 Core Survey, 62.8% of students had experienced a hangover in the year prior to their participation in the survey. The Harvard study found that a large percentage of students who identified as frequent binge drinkers also reported having experienced various problems related to their drinking (Wechsler, et al, 1999). Many of these students missed class, fell behind with studies, did something they later regretted, experienced blackouts, argued with friends, engaged in unplanned or unprotected sex, damaged property, had trouble with the police, were injured, overdosed on alcohol, and drove after drinking or bingeing (Wechsler, et al., 1999). Fifty-four percent of the frequent binge drinkers reported having experienced five or more of the above mentioned problems related to

their drinking (Wechsler, et al., 1999).

Heavy drinking has had deleterious effects on both the students who are abusing alcohol and those students who choose to abstain or to drink in moderation. The secondary effects of alcohol misuse can be significant. Students who choose not to engage in binge drinking activities must live along side and attend classes with those students who do binge drink. Student health and the many other issues related to campus binge drinking have become problems that university administrators must confront.

Although alcohol is certainly the most prevalent drug on college campuses, the use of other drugs has also surfaced as an issue that must be addressed on campuses in the United States. The Core Institute's 1999 statistics indicate that 33% of college students surveyed had used marijuana in the year prior to completing the survey. The same research concluded that six percent of students reported using amphetamines, seven percent reported using hallucinogens, and four percent had used cocaine in the year prior to the survey (Core Institute, 2000). According to the National Institute on Drug Abuse, 61 % of high school students have experimented with illegal drugs (Bachman, et al., 1996). These percentages have remained relatively steady over the past few years. An increase in the use of designer drugs such as ecstasy on college campuses in the United States has also been noted (Core Institute, 2000). The use of illegal drugs has proven a consistent problem for colleges and universities.

As with alcohol abuse, students report negative consequences associated with their drug use. Over 22% of students associated alcohol or drugs with poor performance on a test or project within the year prior to participating in the Core Survey (Core Institute, 2000). When asked about the negative consequences of their alcohol or drug use, 53.8% of students responding to the 1999 Core Survey reported that they had become nauseated or vomited after using alcohol or drugs (Core Institute, 2000). Another 30.4% reported being criticized by someone they know for their alcohol or drug use (Core Institute, 2000). Ten percent of respondents admitted to thinking that they might have an alcohol or drug problem (Core Institute, 2000).

The severity of alcohol abuse and drug use on college campuses

has been recognized on both the individual campus level and the national level. Individual campuses and administrators have tried to curb the effects of student alcohol and drug abuse through campus-based education initiatives, tougher disciplinary sanctioning, and alternative programming efforts. Wechsler, Kelley, Weitzman, Giovanni, and Seibring (2000) surveyed campus administrators regarding the response to student binge drinking on different campuses. Of the universities surveyed, 97% provide some form of education program related to alcohol, 98% prohibit keg delivery to residence halls, and 87% reported that keg delivery to fraternities and sororities is also prohibited (Wechsler, et al., 2000). In addition, many institutions reported that alcohol was not allowed at tailgating and home sporting events on their campuses (Wechsler, et al., 2000).

Wechsler et al. (2000) found that a number of universities have placed restrictions on alcohol advertising on their campuses in an effort to combat student binge drinking. Restrictions on this type of advertising are made at home sporting events (90%) and in campus newspapers or on-campus bulletin boards (51%) (Wechsler, et al., 2000). Seventy-seven percent of the institutions surveyed also reported that they employ a staff member to target issues of alcohol and drug abuse on their campuses (Wechsler, et al., 2000).

Although many universities have utilized a variety of the aforementioned tactics, substance abuse still remains an overwhelming problem on many campuses. In 1998, the federal government passed legislation in an effort to increase the resources available to university administrators in confronting issues of alcohol and drug abuse. This legislation, passed by the United States Congress as part of the Higher Education Amendments of 1998, altered the Family Educational Rights and Privacy Act (FERPA) regarding the release of educational records. This amendment, section 444 of the General Education Provisions Act, includes a specification that grants colleges and universities the permission to notify parents and guardians of college students under the age of 21 when a student is found responsible for violating university alcohol or drug policy. The new law allows universities to actively notify parents and guardians, but it does not require that they do so (Gehring, 1999). This policy was passed by the federal legislature in October of 1998

and went into effect January 1, 1999.

Institutional reaction to this legislation has varied. A few institutions eagerly adopted guidelines for notifying parents. Other institutions have consciously decided not to implement such a policy. The majority of colleges and universities either delayed a decision on parent notification policy or chose not to respond to the amendments. According to research conducted at Bowling Green State University, 56.7% of public universities had not drafted a parent notification policy as of January 2000 (Palmer, Lohman, Gehring, Carlson, & Garrett, 2001). Both institutions that immediately enacted policies to notify parents and those who did not exercise this authority anxiously awaited the federal guidelines, which were made public in July of 2000.

The FERPA guidelines were generated after the Department of Education solicited questions and comments from higher education administrators and the public. The guidelines have been used to clarify several areas of confusion within the Higher Education Amendments. The new guidelines have specified that students whose parents are notified must be under the age of 21 at the time of parental notification (United States Department of Education, 2000). In addition, the federal regulations have determined that no parent notification should be made for disciplinary misconduct that occurred prior to October 7, 1998 (the date the amendments were passed) (United States Department of Education, 2000). The federal government also made clear its expectation that colleges and universities keep accurate and up to date records of all notifications (United States Department of Education, 2000). Despite confusion among university officials, the government chose not to define the term "disciplinary violation" in the recently published guidelines. According to the United States Department of Education (2000), imposing a universal definition for this term would "be placing a large burden on institutions to conform their codes of conduct to our regulatory definition" (p. 33).

The decision to wait for the federal guidelines gave many institutions the opportunity to examine the effects of parent notification policy as implemented by the institutions that were early adopters of parent notification policies. The institutions that adopted policies to notify parents prior to the publishing of the federal regulations con-

structed their own institutional guidelines to be used until the publishing of the official guidelines. After the federal government drafted and distributed the official regulations, some universities have adjusted their policies to meet the criteria established by the Department of Education.

In order to fully understand the impact of the 1998 FERPA amendments and subsequent policies drafted by universities, a historical perspective on the relationship between universities and students must be explored. This relationship has evolved and changed throughout the history of higher education. In its early years, the university played an integral role in both the academic and moral development of each student (Rudolph, 1990). College faculty served not only as mentors, instructors and administrators, but also assumed a paternalistic role with the students at their respective universities. "Conduct was dictated by rule and monitored by the close attention of the president, the teachers, and the tutors" (Dannells, 1997, p. 4). This philosophy of *in loco parentis* persisted through the 1700s and into the 1800s on college campuses. "Students' lives were regulated in every way—when they arose and retired, when and what they ate, what they wore, and how they behaved in and out of class" (Dannells, 1997, p. 3). "Discipline became paternalistic during the late 1700s and into the 1800s with the rise of the public university, the broadening of the university's mission, the increasing secularization and pluralism of higher education in general, and increasing enrollments" (Dannells, 1996, p. 176). In the 1800s, students began to resist the intrusive behavior of university administrators. In a society with an increasingly strong democratic influence, colleges and universities were made to reconsider the authoritarian and paternalistic methods for the regulation of student behavior (Dannells, 1997).

After the Civil War, the relationship between the college and its students again changed. This period marked the beginnings of "shifting some of the disciplinary and regulatory burden from the faculty and administration to the students" (Rudolph, 1990, p. 369). This movement personified the transition from institutions treating students as children to treating them as adults. The post-Civil War period marked the "disinclination on the part of the new professors with their Ph. D. degrees and scholarly orientation to have anything to do with such trivial matters as

discipline and the extracurriculum" (Rudolph, 1990, p.369). Colleges and universities began to delegate the responsibility of discipline to specialists who were later titled Deans of Men and Deans of Women (Dannells, 1997). "These early deans expanded both the philosophy and the programs of discipline in higher education" (Dannells, 1996, p. 176). They approached discipline with the ultimate goal of self-control or self-discipline, and used more individualized, humanistic, and preventative methods" (Dannells, 1996, p. 176).

The Civil Rights movement in the 1960s proved to be another time of transition for the relationship between institutions of higher education and their students. "College and university administrators began to rethink their orientation towards students and the nature of the student-institutional relationship" (Rentz, 1996, p. 45). "The 1960s and '70s were characterized by increased student input into disciplinary codes and processes, broadened legal and educational conceptions of students' rights and responsibilities, and the introduction of due process safeguards in the hearing of misconduct cases" (Dannells, 1996, p. 177). The roles of college administrators changed to meet the needs of a changing student population with new demands and needs. The 1960s marked "a dramatic increase in student input into rules, procedures, and the adjudication of misconduct" (Dannells, 1997, p. 60). During this period "concepts of confrontation, *in loco parentis*, and meritocracy were replaced by encounter, collaboration, and egalitarianism" (Rentz, 1996, p. 46).

More recently, the National Association of Student Personnel Administrators (NASPA, 1990) endorsed a set of standards for professional practice. Published in December of 1990, these professional standards address many areas of student affairs work including the area of student behavior. The NASPA standards address student behavior and establish an expectation that "members foster conditions designed to ensure a student's acceptance of responsibility for his/her own behavior" (NASPA, 1990). The NASPA standards have helped to focus the efforts of student affairs professionals on the area of student responsibility. This focus is particularly important when constructing campus judicial policies.

Two historic law cases have also significantly influenced the way

that colleges and universities approach student discipline. *Dixon v. Alabama State Board of Education* (1961) was one such monumental case. This case resulted from a lawsuit filed by several black students who were expelled from Alabama State College during a period of intense civil rights activism in Montgomery, Alabama (Kaplan, 1997). Questions related to the amount of notice required to legitimately secure the due process rights of students were raised by *Dixon* (Kaplan, 1997). The final decision in *Dixon v. Alabama State Board of Education* clarified the requirement that colleges must give notice and an opportunity for a hearing to students prior to their expulsion from a tax-supported institution (Kaplan, 1997). This case reaffirmed the responsibility of colleges and universities to uphold student rights when approaching issues of student misconduct.

Another landmark legal case, *Bradshaw v. Rawlings* (1979), confronted issues of the duty of care that colleges and universities are required to provide to students. Specifically, *Bradshaw v. Rawlings* is said to address the issues of *in loco parentis* and the scope of institutional responsibility for protecting students from potential harm. In this case, a student who "was seriously injured in an automobile accident following an annual sophomore picnic held off campus" brought action against the university and suggested "that the college owed him a duty of care to protect him from harm resulting from the beer drinking at the picnic" (Kaplan, 1997, p. 98). The university in this case prevailed in the appeal process and the court decision emphasized the change in the nature of the relationship between students and university. The courts suggested that throughout recent decades, the duty of protection that universities once owed to their students has lessened. "At one time by exercising their rights and duties *in loco parentis*, colleges were able to impose strict regulations. But today, students vigorously claim the right to define and regulate their own lives" (Bradshaw v. Rawlings, 1979). "The doctrine of *in loco parentis* as a legal description of the student-institutional relationship is generally considered to be inappropriate, untenable, intolerable, or simply dead" (Dannells, 1996, p. 180).

The Family Educational Rights and Privacy Act (FERPA, 1974) specifically defines the relationship between a university and its students with regard to student records. FERPA (1974) and its regulations (34

C. F. R. Part 99) establish requirements with regard to the right of students to access their own individual education records, the rights of students to challenge the content of those records, and the procedures for disclosure of "personally identifiable" information from these records (Kaplan & Lee, 1997). FERPA also defines the institution's obligation to notify students of their rights and the recourse for students when an institution may have violated this legislation (Kaplan & Lee, 1997). The records protected under the FERPA legislation include those records that are directly related to a student and maintained by the institution or by a third party on behalf of the institution (Kaplan & Lee, 1997).

In 1986 the relationship between the university and its students was again altered. This transition was spurred by the death of a female college student at Lehigh University in Pennsylvania. Jeanne Clery was a 19-year-old freshman when she was assaulted and murdered by another student while in her residence hall room (Jeanne Clery Act Information Page). The murder of Jeanne Clery and the activism of her parents encouraged legislators to pass the Student Right-to-Know and Campus Security Act that was signed into law by President George Bush in 1990. This act requires all universities that participate in any student aid programs "to publicly disclose three years of campus crime statistics and basic security policies" (Jeanne Clery Act Information Page). The Right-to-Know and Campus Security Act (1990) requires that colleges disclose information from disciplinary proceedings. This act began a more significant series of changes in the area of privacy with regard to student misconduct.

The Campus Security Act began the legislative movement that eventually led to the 1998 FERPA amendments. The alcohol related death of a Radford University student also encouraged lawmakers to take action with regard to issues of alcohol and drug use at colleges. Again, the activism of a parent initiated legislative action. "The parental notification amendment came about largely as the result of the efforts of Jeffrey Levy," the father of the Radford University student killed while riding in a vehicle operated by a drunk driver (Epstein, 1999).

Throughout the history of higher education, colleges and universities have gone through many transitions with regard to how they relate to their students. This relationship has been reconsidered and

redefined to best meet the needs of both institutions and students. The severity of alcohol and drug abuse and the recently granted authority to notify parents and guardians of alcohol and drug related offenses has caused college and university administrators to once again consider the relationship that exists between institutions and students.

Some would suggest that the choice to notify parents and guardians is a revisiting the doctrine of *in loco parentis*. Elizabeth Nuss disagrees. She writes, "the concern about the changing nature of the relationship between students and their institutions offers an important challenge for higher education, but it should not be interpreted as a pendulum swing back to *in loco parentis*" (Nuss, 1998, p. 185). Mike Dannells (personal communication, December 1, 2000) offers an analogy to explain the difference between *in loco parentis* and the current practice of notifying parents and guardians. *In loco parentis* was a doctrine that suggested that the university stand in place of the parents. Notifying parents of student misconduct is something quite different. It is analogous to calling the parent of one of your children's friends to notify them about their own child's misbehavior (Dannells, personal communication, December 1, 2000). Institutions who have adopted parental notification policies are giving the information and thus some of the responsibility back to the parents or guardians of the students who are violating conduct expectations.

The federal government has granted institutions of higher education an additional resource for confronting issues of alcohol and drug abuse on their campuses. This is certainly not the only resource available to colleges and universities. Choosing best tactics to employ to combat the abuse of alcohol and drug violations on individual campuses requires careful consideration of the relationship a university has with its students. Examining the historical roots, legal precedents, and current trends in higher education is necessary in understanding the potential implications of any policy decision.

As mentioned earlier, administrators have been employing a variety of tactics to combat alcohol and drug problems on their campuses for many years. As with any policy or program, the effectiveness is not known immediately. It will be increasingly important, as decisions are made regarding the 1998 Higher Education Amendments, for

universities to evaluate the effectiveness of their individual campus responses and to adjust their policies accordingly. Dannells (Personal Communication, December 1, 2000) suggests that an "ongoing dialogue" occur regarding issues of parental notification. When a policy is in its infancy stages, it seems logical to engage in such discussions about its impact.

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