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Legal and Ethical Issues in College Student Affairs

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**Alcohol on Campus. Most colleges and universities struggle with legal issues related to alcohol use and abuse among students. What are the recent trends in (1) the law and (2) institutional practices that represent attempts to address this problem? What is your personal evaluation of these efforts in terms of their legality and potential for effectiveness? What further changes would you recommend in the law or in institutional practices to assist public institutions in their efforts to deal with the alcohol culture of college students?**

**Trends in the law:**

Some of the recent trends in alcohol abuse among students show that universities are not responsible for decisions made by their students; in other words, the universities' duty of care does not always extend into decisions made by students because they are considered to be adult and mature in their decision making process. This trend can be seen in the case of *Bradshaw v. Rawlings* (PA, 1979). In this case, a student brought a lawsuit against the college and beer producers because alcohol was given to students at a sophomore class picnic. The student claimed that the university should be responsible to protect the student from any harm that may come as a result of drinking while at the picnic. At first, the court decided in favor of the student, but an appellate court overturned the decision noting that the student was unable to show that the university owed him a duty of care. Another case showing this trend is *Baldwin v. Zoradi* (CA, 1981). In this case, drinking while in a college dorm room contributed to an accident. The court ruled that the university was not responsible because drinking is such a common problem, and it is impossible for a university to control the actions of their students in every situation. Several other cases also show this trend to be true. For example, in the case of *Beach v. University of Utah* (1986), the court did not find the university responsible when a student drank on a class trip (in view of an advisor) and later fell of a cliff. In *Crow v. State of CA* (1990), the court determined that the

university did not have a duty to protect a student from the assault of an intoxicated student. One last case illustrating this trend is that of *Van Mastrigt v. Delta Tau Delta* (PA, 1990). A student committed a murder and claimed that the drugs and alcohol he had consumed while at a frat party caused him to act out. The student who committed the murder wanted both the university and the fraternity to be held liable, but the court said they were not responsible. These cases illustrate that students who consume alcohol are responsible for their actions; they cannot easily shift blame and liability to a university even if their actions occurred on university property.

Though most cases involving alcohol were decided in favor of the university, there are several cases in which the courts have determined some level of liability held by the university. For example, shortly after the *Bradshaw v. Rawlings* ruling, the Pennsylvania Supreme court found that individuals who provide alcohol to minors are negligent and therefore liable for any damages that may be a result of their actions; this was determined in the *Congino v. Portersville* (1983) case. The main point from this case is that somehow a university must have a way to control who they allow to drink alcohol when the university provides it; if a minor is given a drink, the university may be responsible for whatever actions and decisions the student then makes. Similarly, *Kelly v. Gwinnell* (NJ, 1984) and *Bauer v. Dann* (Iowa, 1988) both illustrate that when alcohol is served to minors, the university can be found liable when the state has a law in which civil liability can be attributed to the provider of the alcohol. On a whole, the trends in cases show rulings in favor of the university as long as the alcohol was not given to a minor who then had an accident, caused harm to themselves or others, etc.

*All of the above discussed cases were taken from the following two sources—  
Kaplin and Lee (1997) and Bickel and Lake (1999).*

**Trends in institutional practice involving alcohol:**

One of the issues in institutional practice that needs to be noted surrounds congress's 1998 decision/law that allows for a college or university to contact a student's parents if the student has consumed alcohol or drugs when they were underage. Though this law has been passed, it appears that colleges and universities are still struggling to determine their stance on this issue

(College Alcohol Policies from <http://www.collegedrinkingprevention.gov/policies/>).

There is no consistent written rule in most college's policies regarding the response of the college or university when an underage student drinks or consumes drugs. Rather, most policies note that as part of the response, parents *may* be contacted in the event of an underage student consuming alcohol or drugs. It should be said that no college or university supports underage drinking; it is simply that the response that the colleges and universities have regarding this issue may differ.

When looking into some of the trends that universities and colleges have enacted regarding alcohol abuse among students, several themes seemed to emerge. First, the need for communication of policies regarding alcohol to students, parents, police, merchants, community councils, etc. appears to be important. Colleges and universities seem to be taking steps to put all of the people involved on the same page. They are working to educate people, not just students, about what is expected and allowed on campus. As part of this communication, colleges and universities are working to partner with merchants, police, etc. in the area. For instance, some colleges and universities are

asking police to do regular checks of vendors in the area to make sure they are not supplying alcohol to underage students; they are also asking police to question any underage drinkers that get caught about where they received their alcohol. A second theme that I saw in looking at different colleges and universities programs includes simply banning alcohol from school sponsored events. If the alcohol is not provided by the university, the university has a lesser likelihood of being held liable because they are not directly supplying the alcohol. Though not all colleges and universities do this, it appears that a good number of them do not serve alcohol at university sponsored events. A third trend that could be seen is that of educating students about what their peers are actually doing. Because many students think it is normal to drink excessively when at events, showing statistics about the reality of choices students are making may help. This encourages students to possibly drink less because they realize they are not alone in making that decision. These themes were in some way discussed in information at the following sites:

- College Drinking: Changing the Culture at <http://www.collegedrinkingprevention.gov/>
- “What Colleges Can Do” at <http://www.epi.umn.edu/alcohol/policy/colleges.html>
- College Alcohol Policies at <http://www.collegedrinkingprevention.gov/policies/>

**My evaluation of these efforts and further suggestions/changes I would recommend:**

In terms of what the courts have decided regarding alcohol issues of students and universities/colleges, I tend to agree with where they have landed. Though I do think that colleges and universities have certain responsibilities, it would be hard for me to hold an institution responsible for the actions of a student as long as the institution is operating

within the law and their policies and not serving alcohol to a minor. If a student chooses to drink while at a college event, I really do think the student should still be responsible for his/her actions and decisions. Though alcohol does impair people's judgments at times, people need to know their limits and how to be responsible when drinking. The decisions that the courts have made to not hold universities and colleges responsible are effective in promoting individual responsibility rather than just shifting blame outside of oneself.

I also like some of the efforts that institutions are taking to help with the alcohol problems facing students. The idea of full community collaboration is crucial to success. If the community is supportive of an institution's values and of not giving alcohol to minors, it will help a lot. Though this is a great idea, I am not sure how effective it really is. It will take very intentional efforts on the part of the institutions to encourage and follow up with community involvement in the effort. It is not a process that comes easily because it requires collaboration, both internally and externally from the institution. Having a visible police presence is also necessary. Encouraging police to crack down on underage drinking and where the minors get alcohol may help a lot. Another trend is for institutions to not supply alcohol at school sponsored activities. This is a trend that I support because it takes away liability from an institution in that the institution will not be actively encouraging students to drink. From what I understand of the law, all of the trends noted above seem to be put in place because they help show an institution's active role in taking responsibility for their actions, as well as encouraging responsibility among their students (this is great in terms of their liability).

One suggestion that I have is for institutions to fully take advantage of the 1998 law passed by congress enabling them to notify parents of underage drinkers. Though I do think institutions want to treat their students like adults, parents may have more influence than an institution. I also think it sends a strong message to students that underage drinking will not be tolerated by the institution. Another suggestion that I have for institutions is to create policies that are specific in terms of in what instances students can consume alcohol on campus. For instance, alcohol cannot be consumed on California state property, which creates some specific guidelines for California state schools. Students cannot drink outside, and therefore parties need to stay small and be within fire code of housing. It is important for students to understand the policies and what is expected of them. One last suggestion that I have would be continuing education in new ways. Try to educate students about the reality of alcohol and what it does to one's body. A good way to do this is to use the technology that is available today. There are interactive programs that walk students through the effects of alcohol. When students do not comply with policy, the education that a student receives should be comprehensive and truly make the student think about his/her decisions.

**Sources Used for Alcohol Question:**

Bickel, R. D. & Lake, P. F. (1999). *The rights and responsibilities of the modern university: Who*

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