

APPENDIX B

SAMPLE QUESTIONNAIRE AND SUMMARY OF RESULTS*

1. Does your institution provide and publish, available for the students' inspection, regulations governing campus disorders?

| | |
|-------------------|-----|
| Yes | 66% |
| No | 27 |
| No Response | 7 |

2. Has your institution made provision for a formal hearing procedure in the event that certain of your students have been charged with violating regulations concerning campus-wide disorders?

| | |
|-------------------|-----|
| Yes | 70% |
| No | 22 |
| No Response | 8 |

3. In case a student becomes subject to disciplinary action because of his participation in disruptive campus activities,

a. Who is authorized to file complaints? [572]

| | | | |
|------------------------|-------|--------------------------|------|
| Anyone | 41.7% | President and Dean | 3.3% |
| Dean of Students | 15.3 | Faculty | 3.3 |
| Administration | 7.7 | Others | 2.6 |
| President | 6.3 | No Response | 16.1 |
| Campus Security | 3.7 | | |

b. Who decides whether to bring charges? [559]

| | | | |
|--------------------------|-------|-----------------------------|------|
| Dean | 40.3% | Victim | 2.5% |
| President | 9.7 | President or Dean | 2.1 |
| Hearing Board | 6.4 | Student Organization | 1.4 |
| Administration | 6.1 | Student-Faculty Board | 1.3 |
| Anyone | 4.8 | Others | 3.4 |
| Vice President | 3.8 | No Response | 15.7 |
| President and Dean | 2.5 | | |

On what criteria is this decision made? (E.g., probable cause to believe a violation of university regulations has occurred?)

| | | | |
|-------------------------------------|-------|------------------------------------|------|
| Probable Cause | 32.5% | Severity of alleged activity | 2.6% |
| Any evidence | 8.9 | Observance of the activity | 1.1 |
| Discretion | 6.0 | Actual violation | 0.8 |
| Not responsive to allegations | 5.9 | No Response | 42.2 |

c. Under what circumstances if any will the administration provide funds for an attorney for the student if he uses an attorney? [584]

| | | | |
|-----------------------------------|------|------------------------------|------|
| Extraordinary circumstances | 0.9 | Unresolved | 0.3 |
| Indigency | 0.9 | Recommendation of Dean | 0.2 |
| If university has counsel | 0.3% | No Response | 28.1 |

d. How is the university's case presented?

| By report of an administrator? | | By production of evidence? | |
|--------------------------------|-----|----------------------------|-----|
| Yes | 67% | Yes | 75% |
| No | 5 | No | 4 |
| No Response | 28 | No Response | 21 |

* Unless otherwise indicated in brackets, the number of responses for each question is 536.

lMay the student hear the evidence against him?

Yes 81%
 No 1
 No Response 18

f. If the student cannot hear the evidence against him, is he furnished with the names of those who testified against him and/or a written or oral report of what was said by them? [93]

Yes 90%
 No 10

g. Is the student through his attorney permitted to cross-examine all administration witnesses as to all matters in issue? [378]

Yes 77%
 No 23

May the student cross-examine administration witnesses as to all matters in issue if his attorney is not permitted to do so? [333]

Yes 92%
 No 8

h. Does the hearing board or other trier of fact determine the facts of the case solely from the evidence presented at the hearing?

Yes 73%
 No 6
 No Response 21

i. May the hearing board consider evidence taken from the student's room in violation of law or in violation of university regulations protecting privacy?

Yes 16%
 No 50
 No Response 34

j. Does the student have the right to remain silent during any prehearing investigations?

Yes 75%
 No 2
 No Response 23

k. On what grounds will you invoke this interim suspension power? [627]

| | |
|-----------------------------------|--|
| Personal safety 25.6% | Failure to cease and desist 3.7% |
| Evidence of guilt 12.1 | Discretion 3.3 |
| Safety of property 10.0 | Relieve tension 2.2 |
| Violence 8.1 | Recidivism 0.6 |
| Welfare of university 7.8 | Violation of law 0.6 |
| Disruption of functions 6.1 | Violation of regulation s..... 0.5 |
| Seriousness of offense 4.9 | No response 14.5 |

l. What provisions exist for appeal or review of such interim suspension determinations?

Formal 50%
 Informal 2
 None 11
 No response 37

4. Under what circumstances may the hearing, if one is provided for, be closed?

| | | | |
|-----------------------------|-------|--------------------------------|------|
| Discretion of student | 25.9% | If necessary to preserve order | 2.6% |
| Always closed | 22.9 | Open unless too personal | 2.2 |
| Discretion of Dean or Board | 4.9 | Discretion of Board | 0.9 |
| Always open | 4.7 | No response | 31.4 |
| Consent of all | 4.5 | | |

5. At the hearing, if one is provided for,

a. Does the student have the right to the assistance of an attorney?

| | |
|-------------|-----|
| Yes | 57% |
| No | 22 |
| No Response | 21 |

If not, may he be accompanied and assisted by a non-legally trained advisor? [265]

| | |
|-----|-----|
| Yes | 91% |
| No | 9 |

Are there any restrictions on the type of non-legal adviser the student may have? [390]

| | |
|-----|-----|
| Yes | 26% |
| No | 74 |

b. Does the administration have the right to be represented by counsel?

| | |
|-------------|-----|
| Yes | 54% |
| No | 21 |
| No Response | 25 |

c. May the charges be disposed of informally where the student consents to this procedure?

| | |
|-------------|-----|
| Yes | 68% |
| No | 15 |
| No Response | 17 |

d. Is the charged student notified by furnishing him a written statement of the charges against him, which specifies the regulations he has allegedly violated and the acts which comprise the violation?

| | |
|-------------|-----|
| Yes | 79% |
| No | 4 |
| No Response | 17 |

e. How far in advance of the hearing is notification provided?

| | | | |
|--------------------|------|-----------------|------|
| Less than two days | 8.8% | Reasonable time | 6.7% |
| Two-five days | 31.3 | No Response | 29.1 |
| Seven or more days | 24.1 | | |

f. How is the student served with notice?

| | | | |
|----------------------|-------|--------------------|-------|
| Mail | 31.6% | Registered mail | 11.5% |
| Hand carried | 20.1 | Personal interview | 4.6 |
| Hand carried or mail | 11.9 | No Response | 20.3 |

g. Is the student permitted, prior to the hearing, to inspect affidavits, exhibits, statements of complaining witnesses, and other materials to be used against him at the hearing?

Yes 57%
 No 21
 No Response 22

h. Is the student furnished, prior to the hearing, with the names of those witnesses who will testify against him?

Yes 52%
 No 25
 No Response 23

i. Does the administration or faculty maintain the similar prerogative of inspecting student documents and acquiring the names of student witnesses?

Yes 44%
 No 29
 No Response 27

j. Do you maintain the right to suspend the student prior to the hearing?

Yes 62%
 No 21
 No Response 17

k. Is the student warned of the right to silence, if he has such a right, and the possibility of self-incriminating during prehearing investigation?

Yes 57%
 No 17
 No Response 26

l. Can the student remain silent during pre-hearing investigation without having this silence commented upon at the hearing?

Yes 51%
 No 19
 No Response 30

m. May the student, if testifying in his own behalf, refuse to answer questions which he feels may incriminate him?

Yes 71%
 No 4
 No Response 25

n. Generally, (a) what legal rules of evidence are observed and (b) how closely are they followed?

| | | |
|-----------------------------------|--|-----------------------------------|
| Hearsay 3.9% | | Hearsay and Relevance 1.5% |
| As closely as possible 1.3% | | Not closely 0.2% |
| Not closely 0.4 | | No Response 1.3 |
| No Response 1.7 | | Hearsay, Relevance, and |
| Materiality 6.7% | | Materiality 20.5% |
| As closely as possible 0.4% | | As closely as possible 9.9% |
| Not closely 0.4 | | Not closely 8.4 |
| No Response 5.9 | | No Response 2.2 |

| | |
|---------------------------------------|---------------------------------------|
| Relevance 8.8% | No Response 0.7 |
| As closely as possible 0.4% | Relevance and Materiality 14.4% |
| Not closely 0.7 | As closely as possible 2.1% |
| No Response 7.7 | Not closely 1.3 |
| Hearsay and Materiality 0.9% | No Response 11.0 |
| Not closely 0.2% | |

| | |
|--|-------|
| General fairness (no specific legal rules) | 16.8% |
| No Response | 26.5% |

o. Is evidence of the student's moral justification of his acts admissible on the issue of guilt or innocence?

| | |
|-----------------------|-----|
| Yes | 49% |
| No | 19 |
| No Response | 32 |

On the issue of the appropriate sanction?

| | |
|-----------------------|-----|
| Yes | 50% |
| No | 10 |
| No Response | 40 |

p. May the complainant, *i.e.*, the Dean or other administrative official who brings the charge, sit on the hearing board if he is otherwise a member?

| | |
|-----------------------|-----|
| Yes | 20% |
| No | 59 |
| No Response | 21 |

q. May the witness who presents the college's evidence also sit on the hearing board if otherwise a member?

| | |
|-----------------------|-----|
| Yes | 13% |
| No | 63 |
| No Response | 24 |

r. May the student testify and call witnesses on his own behalf?

| | |
|-----------------------|-----|
| Yes | 81% |
| No | 1 |
| No Response | 18 |

s. Does the school maintain the prerogative of compelling students or staff to appear as the charged student's witnesses?

| | |
|-----------------------|-----|
| Yes | 24% |
| No | 47 |
| No Response | 29 |

t. May the student make a transcript of the active proceedings at the hearing?

| | |
|-----------------------|-----|
| Yes | 53% |
| No | 20 |
| No Response | 27 |

If the student cannot afford to make a transcript, will the administration do so and make it available to the student?

Yes 49%
 No 21
 No Response 30

u. Which party (a) has the burden of proof as to the student's innocence or guilt and (b) what is the quantum required? (E.g., beyond reasonable doubt; preponderance of evidence; etc.)

| | | |
|----------------------------------|----------------------------------|--------------------------|
| Student 0.8% | Reasonable Doubt 0.6% | No Response 7.1 |
| No Response 0.2 | Administration 44.2% | No Response 55% |
| Reasonable Doubt 16.3% | Reasonable Doubt 16.5% | Preponderance 10.4 |
| Preponderance 14.2 | Weight of the evidence 0.6 | No Response 27.1 |
| Weight of the evidence 3.2 | No standard 0.4 | |
| No standard or varied 3.4 | | |

6. Does the hearing board make specific findings and recommendations to which the student can prepare objections before review by higher school authorities?

Yes 58%
 No 19
 No Response 23

7. Are the results of the hearing written and made public and available to student inspection in a report?

Yes 36%
 No 38
 No Response 26

8. Is the student, charged with violation of university regulations concerning campus-wide disorders, permitted to appeal the decision of the hearing board to the university President or other higher administrative official?

Yes 57%
 No 3
 No Response 40

If so, on what grounds and to whom may the student make such an appeal?

| Grounds? | To Whom? |
|-----------------------------------|-----------------------------|
| Any grounds 23.7% | President 32.0% |
| Procedure 10.5 | Appeal committee 9.2 |
| New evidence 7.6 | Board of trustees 6.2 |
| Excessive punishment 4.4 | Dean 3.6 |
| Insufficient evidence 2.1 | Faculty 1.1 |
| Automatic 1.7 | State board 1.9 |
| Suspension or expulsion 1.5 | Vice President 0.9 |
| No Response 48.5 | No Response 45.1 |

9. If a number of students become subject to disciplinary proceedings for their participation in the same campus disturbance, do they have the right to be tried jointly by the hearing board?

Yes 47%
 No 20
 No Response 33

10. Approximately how many times has this hearing procedure been used to try those charged with disruptive activities on campus? [383]

| | | | |
|----------------------|-------|-------------------|------|
| Never used | 68.2% | Three times | 2.9% |
| One time | 15.9 | Ten + times | 2.3 |
| Two times | 6.0 | Four times | 1.6 |
| Five-ten times | 3.1 | | |

11. What kinds of sanctions are usually imposed by the hearing board? Indicate by percentages based on past experience.

| | Never use | Use, but <50% | >50% |
|-------------------------------------|-----------|---------------|------|
| Expulsion | 23.5% | 12.1% | 0.6% |
| Suspension | 8.0 | 22.6 | 6.1 |
| Probation | 3.0 | 7.3 | 23.3 |
| Fine | 26.0 | 6.2 | 1.7 |
| Restitution | 17.1 | 9.3 | 5.8 |
| Termination of Scholarship | 28.5 | 3.4 | 0.4 |

12. Approximately what percentage of the students called before the hearing board for engaging in campus disorders are expelled or suspended?

| | |
|---|-------|
| None are expelled or suspended | 14.9% |
| 1-24% are expelled or suspended | 7.3 |
| 25-49% are expelled or suspended | 2.3 |
| 50-100% are expelled or suspended | 6.4 |
| No Response | 69.1 |

(The high percentage of "no response" replies is attributable to the fact that 68.2% of the schools replying have never used their hearing procedure to try students charged with disruptive activities.)

13. a. What is the composition of the hearing board (student, faculty, administration)? [455]

| | | | |
|--|-------|---|------|
| Faculty-Students | 15.6% | Not Applicable | 8.6% |
| Administration-Faculty- Students | 13.4 | Faculty & Administra- tion-Students..... | 5.1 |
| Faculty Majority | 12.7 | Faculty & Administra- tion Only..... | 3.3 |
| All Students | 12.5 | All Faculty | 2.4 |
| Administration & Faculty Majority | 12.5 | All Administration | 1.8 |
| Student Majority | 11.4 | Administration Majority | 0.7 |

b. How are members of the hearing board selected? [466]

| | | | |
|--|-------|---------------------------|-------|
| Board selection by its constituents | 39.2% | Student vote | 11.2% |
| Administration appointment ... | 23.3 | Faculty vote | 1.3 |
| President appoints all but students, who are elected | 11.7 | Faculty appointment | 0.7 |
| | | Lot | 0.2 |
| | | No Response | 12.4 |

c. Does the board have as one of its members an attorney?

| | |
|-----------|-----|
| Yes | 10% |
| No | 90 |

If not, does the board have a legal adviser who is present at the hearing? [303]

Yes 28%
 No 72

14. Is the disciplinary procedure used in the case of campus disorders the same as that utilized to impose sanctions for academic misconduct([425]

Yes 58%
 No 42

15. Under what circumstances, if any, does your institution refrain from imposing disciplinary measures on a student who has been or is being tried by local civil authorities for the student's participation in objectionable campus activities?

| | |
|-------------------------------|-----------------------------|
| Never refrain 22.6% | Generally refrain 5.0 |
| After court action 13.6 | Discretion 7.5 |
| Always refrain 2.6 | No Response 39.6 |
| Depends on offense 9.1 | |

16. In the event a student is charged with participating in disruptive campus activities, does your institution provide a separate procedure for imposing the sanction of terminating a student's scholarship or loan benefits?

Yes 17.4%
 No 53.0
 No Response 29.6

If so, please describe this procedure briefly.

| | |
|---|--|
| Discretion of committee 20.4% | Automatic upon conviction 7.5% |
| Discretion of Dean or Director of Student Aid 14.0 | Only upon suspension or expulsion 3.2 |
| According to Statute 10.1 | No Response 44.8 |

17.
 a. A federal statute allows a university to cut off a student's federal financial aid (such as National Defense Loans) if he is convicted of a crime based upon acts which caused disorders on your campus. Under what circumstances would you consider utilizing this sanction?

| | |
|-----------------------------------|-------------------------|
| As appropriate 22.4% | Almost never 6.7% |
| Always upon conviction 13.6 | Never 5.8 |
| As required by statute 9.3 | No Response 42.2 |

b. Does your state have a similar statute?

Yes 27%
 No 36
 No Response 37