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## Due Process in Higher Education: A Study of Due Process in Relation to Greek Life Affairs

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**Due Process in Higher Education: A Study of Due Process in Relation to  
Greek Life Affairs**

Presented to  
Dr. Bierly  
General Honors 401  
Senior Thesis Project

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by  
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## Abstract

Fraternities have blazed headlines over the past several years due to incidents involving degrading and racist chants, private Facebook groups bragging about illicit behavior, and in several cases, allegations of sexual assault. This project serves to investigate the constitutional rights of Fraternities and Sororities during investigative and disciplinary procedures. A major concern that this project explores is whether organizations are protected under the 14<sup>th</sup> Amendment of the Constitution in university disciplinary procedures. This project provides a thorough discussion of the history of Greek organizations and their significance. It also conducts an exhaustive review of the 14<sup>th</sup> Amendment's Due Process Clause and how it applies to universities through their established Student Code of Conduct<sup>1</sup>. This piece investigates Student Code of Conduct policies from sixteen college campuses in the Midwest to determine how sanctions are delivered to student organizations; half of the universities require student organizations to be punished in the same way as individual students. Three universities have separate policies or have clauses that determine how organizations should be punished. This project also provides an in-depth look into the growing trend of the Court system not finding the University to be responsible if they are sued as a result of an incident involving a Greek organizations.

**Key words: Greek life, higher education, due process**

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<sup>1</sup> Varies between schools

For the last several years, Greek life scandals have made headlines across America casting a shadow of doubt on their continuance. These scandals have formed the public perception of Greek life as a whole on college campuses; even major news outlets, such as USA Today, have called for an end to all fraternities<sup>1</sup>. Greek organizations have been suspended or disbanded from college campuses for incidents including hazing, racist chants, or derogatory banners.

This project intends to explore the reality of Greek organizations, how they are being investigated by college campuses, and how much liability the university has in a lawsuit. The nature of the scandal is not significant in this project, but the process in which the University and national fraternity investigate allegations is. I intend to explore the history of the 5<sup>th</sup> and 14<sup>th</sup> Amendments in addition to the policies in place on college campuses to discover if they are required to ensure Due Process to organizations involved in scandals. I also plan to explore precedent set by previous lawsuits to determine the amount of liability to which the university is subjected.

This topic plays a significant role in my life because in addition to being an aspiring attorney, I am also the President of the Gamma Chi chapter of the national fraternity Zeta Tau Alpha. It is important to understand the rights of student organizations so that in the event of an incident occurring, they would receive a fair investigation. Over the last several decades fraternities and sororities have come and gone from Indiana State University's campus. I am intrigued to know how the investigations were handled by Indiana State University officials. Having a basic understanding of how my own institution handles investigations of fraternities and sororities would help me in my overall investigation of the general practices of most

universities. It is also very important to me to understand how my national fraternity plays a part in campus investigations.

As scandals occur, the puzzling aspect is that challenges to the investigation process are almost non-existent. Very few organizations involved have filed lawsuits or complaints against the university. One example is Sigma Alpha Epsilon at the University of Oklahoma. In 2014, a video surfaced of the fraternity singing racist chants to the tune of, "If You're Happy and You Know It." The local fraternity retained an attorney to help ensure that the students' rights were secured during the investigation process, but no mention of any defense of the fraternity as a whole being removed from campus for the actions of one member. While the content of the chant is condemned, the right to free speech has been entirely overlooked. Two students were expelled for expressing their constitutionally protected freedoms, and an entire fraternity has been punished, yet no lawsuit has been filed. I intend to explore what laws are in place at the state and national levels. This project focuses on answering three research questions that are formulated to provide detailed information on the topic.

### Research Questions

The three research questions I have created to guide my research project are:

1. What is Due Process and how does it apply to higher education?
2. What is the difference between Public and Private Institutions in relation to Due Process?
3. How much liability rests with Universities in lawsuits?

I intend to answer these questions to the best of my ability by conducting a thorough investigation of policies established by sixteen institutions nationwide, exploring investigative

articles covering Greek organizations facing university sanctions, and studying professional articles published by organizations that specialize in Due Process in Higher Education.

### History of Greek Organizations on College Campuses

Greek organizations have appeared on college campuses as early as the 1700's. The first Greek organization, Phi Beta Kappa, was founded at the College of William and Mary in 1776<sup>2</sup>. It was a secret organization formed for literary and social purposes, but it contained qualities of today's Greek organizations. Phi Beta Kappa had a motto, ritual, badge, friendship, and an urge to share the organization's values through expansion to other campuses<sup>3</sup>. The fraternity also held regular meetings in which members discussed current controversial subjects such as taxation and freedom. However, these debates could only be held secretly due to the American Revolutionary War happening outside university walls<sup>4</sup>. In December 1779, Phi Beta Kappa decided to expand, establishing chapters at Yale and Harvard Universities. However, in January 1781, due to British and American battles along the Virginia peninsula, it ceased its own operations<sup>5</sup>. Greek organizations spread slowly over the next several decades due to the British and Civil war. The majority of Greek organizations were founded between 1865 and 1900, however, more chapters were chartered in the 1900's than in the 17 and 1800's combined<sup>6</sup>.

Women made their debut in Greek life in 1851 when Alpha Delta Pi was coined as the first official sisterhood being labeled as the Adelphean Society<sup>7</sup>. Sixteen years later, Pi Beta Phi was introduced as the first national college fraternity consisting entirely of college women<sup>8</sup>. The term sorority did not make an appearance until 1882 when an advisor of Gamma Phi Beta thought the term "fraternity" was inappropriate for a group of young women<sup>9</sup>. Conversely, Greek societies for women were already incorporated as fraternities and in 1909 the National

Panhellenic Conference (NPC) revised its constitution to use “fraternity” as a name for the organizations<sup>10</sup>.

Throughout the middle and late 1900’s, Greek organizations exploded across the United States, especially after World War II. This was a result of the G.I. Bill allowing veterans to attend college for little to no cost<sup>11</sup>. As the popularity of Greek life on college campuses evolved, so did their values. Ideas over who could and should be granted membership began to differ among chapters. Since many northern institutions changed their admissions quotas to increase minority enrollment after the war, campuses experienced a spike in minority students participating in extra-curricular programs<sup>12</sup>. As a result, many Greek organizations became more exclusive and began accepting members based on racial or cultural backgrounds<sup>13</sup>.

From its debut, there have been people who opposed the Greek system. Critics argued that the groups stunted intellectual development, insulted religion with secret ritual, and promoted inappropriate behavior<sup>14</sup>. It was not until the 20<sup>th</sup> century that such opposing forces made an impact on chapters on certain campuses; some campuses would even go as far as to ban Greek organizations<sup>15</sup>. The legitimacy of these claims varied between campuses and organizations, but for many decades they were never resolved.

Fast forward several decades and Greek organizations are splashing headlines all across the country. Since the beginning of March 2015, more than thirty fraternities have been shut down either by their national headquarters or their Universities<sup>16</sup>. At Indiana University, Alpha Tau Omega fraternity was suspended after a sexually explicit hazing video was posted on social media. Officials at the University of Michigan decided to revoke the charter of Sigma Alpha Mu after members caused nearly half a million dollars in damages to a ski resort<sup>17</sup>. There is no question that the negative actions of Greek organizations need to be punished. However, it is

important to take into account the rights of the organizations and their members. This is especially important when the fate of the entire organization is at stake. This topic is vital because it investigates the policies in place by several different universities and how they respect the Constitution. This project will begin by answering what Due Process is and how it applies to higher education.

### Research Question One: What is Due Process and how does it apply to Higher Education?

Farlex Legal Dictionary defines Due Process as, “A fundamental, Constitutional guarantee that all legal proceedings will be fair and that one will be given notice of the proceedings and an opportunity to be heard before the government acts to take away one's life, liberty, or property. Also, a constitutional guarantee that a law shall not be unreasonable, arbitrary, or capricious<sup>18</sup>.” Due Process is found in both the Fifth and Fourteenth Amendments of the United States Constitution. The Fifth Amendment applies to the federal government while the Fourteenth Amendment applies to state governments. In the legal system, there are two types of Due Process: Procedural and Substantive. Procedural due process refers to the rules that govern how an accusatory proceeding is carried out – the steps by which a matter is “tried” in order to determine the truth or falsity of an accusation<sup>19</sup>. Two examples of procedural due process include the rules governing the defendants’ rights to question witnesses who testify against them and to be tried by a jury of their peers. The Foundation for Individual Rights and Education believes that the use of Procedural Due Process rather than Substantive Due Process reflects society’s commitment to the importance of obtaining an accurate result when a citizen faces trial<sup>20</sup>.



In the past, Courts have used the Substantive Due Process approach as a means of reinforcing the Constitution and the rights afforded by it. This type of Due Process was established by *Lochner v. New York* 198 U.S. 45 (1905) when the United States Supreme Court ruled that the state could not impose laws that interfered with a contract between an employer and his employee. Substantive Due Process has been used to prohibit the government from imposing unjust or arbitrary law; fundamentally, the substance of the laws must be just and reasonable<sup>21</sup>. However, Substantive Due Process has been generally applied to economic liberties and prohibited the government from infringing on economic rights<sup>22</sup>. This type of Due Process has not been recorded in higher education cases. Today, Court systems have opted to Procedural Due Process in place of Substantive Due Process as a way of deciding cases.

The Due Process Clause was first applied to educational settings through the 14<sup>th</sup> Amendment in the Supreme Court case, *Goss v. Lopez*, 419 U.S. 565 (1965). Nine students were suspended from their public high school in Ohio for ten days without a hearing. The students brought a lawsuit against the school officials claiming that the Ohio statute, Rev. Code Ann. § 3313.64, violated their Constitutional right to Due Process. The case was then appealed to the Supreme Court of the United States. The Court held that at minimum, Universities are required to give students a notice of the charges against them, in addition to an explanation of the evidence behind the charges, and an opportunity to challenge such evidence<sup>23</sup>.

According to the Foundation for Individual Rights in Education, Due Process does apply to Universities, but it is established through their own Code of Conduct. However, there are aspects of the clause are harder to prove than others. In *NCAA v. Tarkanian* (1988), the United States Supreme Court held that Universities must be established as the “state” before they can be held to the 14<sup>th</sup> Amendment if there is “a sufficiently close nexus between the State and the

challenged action of the regulated entity so that the action of the latter may fairly be treated as that of the State itself<sup>24</sup>.” Universities are established as “state” because they create governing principles for students. As a result, Universities must not deny students’ fundamental rights to life, liberty, or property. The aspect of “life” is often taken literally which causes it to be rarely seen in University proceedings<sup>25</sup>. The United States Supreme Court determined that liberty interests are actually at stake in University proceedings because the person’s name, reputation, honor, or integrity are potentially at risks of being damaged irreparably<sup>26</sup>. Suspension or expulsion are not as serious as a prison sentence when it comes to liberty, but there is no doubt that it can have a serious effect on the student’s future career. The amount of time and money spent on pursuing a degree constitutes property. Even if the student is a freshman and has only invested one semester, a University cannot revoke a student’s admittance without proper Due Process<sup>27</sup>. Universities establish protections for student life, liberty, and property through their codes of conduct.

Since Universities rarely have separate disciplinary policies for Greek organizations, it is often written into their Student Code of Conduct that all registered organizations are required to abide by the same Code as the rest of the student body. While reviewing the policies of sixteen different Universities, I found that half of them require organizations to abide by the Student Code of Conduct with very little variation in disciplinary procedures. Four Universities require student organizations to abide by the Student Code of Conduct in addition to a separate code specifically established for organizations. Three universities only required student organizations to abide by a separate Code of Conduct specifically designated for student organizations and one university was unclear on its procedures for organizations.

There is very little procedural variation between the universities who all require student organizations to abide by their conduct policies. According to a 2015 Dear Colleague Letter issued by the United States Department of Education, all universities are required to have similar procedures including a complaint and notification to the alleged offender followed by a meeting with the established conduct coordinator<sup>2</sup>. After the meeting, interim sanctions are issued, the decision is made, official sanctions are delivered, and the organization is given the option to appeal<sup>28</sup>. If the student organization decides to reject/appeal the sanctions then the charges are brought to a committee consisting of various faculty, staff, or students on campus. While most universities I studied use the same code of conduct for student organizations, some have different policies that determine whether the entire organization should be held responsible. For example, Northwestern University requires its student organizations to abide by the same code of conduct, but has separate requirements for determining whether the organization will be punished as a whole versus the individual. Examples of the criteria from Northwestern University include:

- One or more individuals acting on *behalf* of the organization
- A significant number of individual members were participating in the prohibited conduct
- The incident occurred at an organization sponsored event
- A significant number of organization officers had knowledge of the prohibited conduct but did not attempt to stop it

San Jose State University, University of Wisconsin – Madison, and Oklahoma State University have entirely separate policies governing their student organizations. All three hold organizations accountable for violating conduct codes outlined in their respective Student

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<sup>2</sup> The title of the coordinator varies between schools

Organization Code of Conduct. The universities also outlined hearing procedures for student organizations. Similarly to Northwestern, all three outline specific procedures for deciding whether to hold the entire organization responsible. Student organization codes of conduct also outline possible sanctions that could be imposed on organizations if they are found to be in violation. For San Jose State University, sanctions for organizations include: withdrawal of recognition, suspension of recognition for a specified period of time, probation (warning that might lead to a more severe sanction), restriction of privileges, reprimand, and restitution for losses caused<sup>29</sup>. By applying the 14<sup>th</sup> Amendment Due Process Clause to educational settings via *Lopez*, students were afforded Constitutional Rights in disciplinary hearings. Although being expelled from school is not as severe as imprisonment, the aspects of life and liberty are still at stake. All Universities have policies in place to ensure that students and registered student organizations receive proper Due Process. However, there are big differences between private and public institutions that will be discussed through the second research question.

### Research Question Two: What is the difference between public and private institutions when it comes to Due Process?

The extent of Due Process that is afforded to students depends upon the situation and the type of university they attend. Typically, the more serious the charge and potential sanction, the greater the protections that must be afforded to students<sup>30</sup>. Students are not given as many rights in University hearings as they are in the criminal justice system for a simple reason: being expelled from school is not as serious as imprisonment. University procedures are similar to traffic court; they carry less Due Process requirements because the person's liberty is not at stake.

Students who are facing suspension or expulsion for disciplinary reasons are entitled to the following protections at a public university:

- The right to have their case heard under regular procedures used for all similar cases
- The right to receive notice of the charges against them
- The right to hear a description of the university's evidence against them
- The right to present their side of the story to an impartial panel

Courts generally require public universities to give students all of the protections they have promised because the universities are receiving federal or state funding which subjects them to abide by certain state statutes<sup>31</sup>. Students may also be afforded additional rights or protections depending on the circumstances of the charges. Simply asking for additional rights may help the student or organization in question. These same rules do not apply, however, to students who face suspension or expulsion from a public university because of poor academic performance<sup>32</sup>. State and federal laws offer very few procedural safeguards are required in academic dismissals, because the courts do not feel comfortable second-guessing academic judgments<sup>33</sup>. In academic cases, Due Process requires universities treat students in a manner that is careful and not arbitrary, and that students be given a reasonable opportunity to present their defense or explanation<sup>34</sup>.

Due Process is viewed in a different light in private universities since they are not receiving government funding. Since they are not part of the government, they are not legally required to offer students constitutional due process in the same manner as public universities<sup>35</sup>. They are frequently bound by contract law to follow their own established disciplinary processes. If a private university says that it will offer a certain safeguard, it is obliged to do so,

more or less in the manner that any private party entering into a contract with another party would be obliged to fulfill that agreement<sup>36</sup>. Breach of contract is both immoral and illegal.

Additionally, both public and private universities are bound by federal laws that guarantee the privacy of student disciplinary records. These laws, for example, govern whether or not universities may report disciplinary convictions to the police or talk about them with the news media<sup>37</sup>. Though these particular privacy laws are not a part of due process, they are important to mention because they provide important protections to students accused of misconduct. Affording proper Due Process is important in public and private Universities in the event that it is sued. Universities are not immune to lawsuits, but their responsibility has changed over the last century. The final research question will explore how University responsibility has evolved over time.

### Research Question Three: Are Universities Responsible in Lawsuits?

The role of Universities in Greek life affairs has changed several times since the early 1900s. In 2001, Kerri Mumford published an article called, *Who Is Responsible for Fraternity Related Injuries on American College Campuses?* Through her research, she explored the history of *in loco parentis* and its effect on university involvement with Greek life. In 1913, *Gott v. Berea College*, 161 S.W. 204 (1913) established the *In Loco Parentis* doctrine that gave universities the authority to establish any rule or regulation for the supervision or benefit of their students that a parent could for the same purpose. The Courts then used several theories including, “where appropriate, *in loco parentis*, shielded by rules of proximate causation, or by ‘all or nothing affirmative defenses’ to decide cases.

The push to end *in loco parentis* began during the Civil Rights Movement when students began demanding rights and independence<sup>38</sup>. The courts finally relinquished universities of their *in loco parentis* status in 1979 with its landmark decision in *Bradshaw v. Rawlings*, 612 F. 2d 135 (1979). In the case, a sophomore student was severely injured in an automobile accident following a university-sponsored event where alcohol was present and purchased by the university. The Supreme Court held that even though the event was planned and sponsored by the University, it was not an insurer of student safety. This decision established that universities did not have a duty to protect students from harm in the same manner as parents.

The way the Court system decided these types of cases began shifting again in the 1980s when courts across the United States began using the “totality of circumstances” analysis. One of the earlier cases, *Rabel v. Illinois Wesleyan University*, 161 Ill. App.3d 348 (1987) was brought up on appeal to the Appellate Court of Illinois after being dismissed by the trial court judge. Rabel was a female student who was called to the lobby of her dormitory by a male student who was participating in his fraternity’s initiation process. The Appellate Court of Illinois held that the college had no duty for student safety and ruled in favor of Illinois Wesleyan.

In recent years, the court system has continued to use the same test for University responsibility. In 2014 alone, the Indiana Supreme Court reviewed two cases involving two different fraternities at Wabash College and found that no liability existed with the university in either case. In the first case, *Smith v. Delta Tau Delta, Inc.* 9 N.E.3d 154 (2014), a fraternity pledge was found dead from alcohol poisoning in his fraternity house owned by Wabash College after a night of being forced to consume several shots of alcohol. The trial court granted summary judgement for Wabash College finding them not responsible for the fraternity’s actions.

In the following case from Wabash College, *Yost v. Wabash College*, 3 N.E. 3d 509 (2014), a freshman student suffered severe injuries during a hazing incident. The student sought damages from Wabash College because it owned the property on which the fraternity house was located. Yost emphasized that as the landlord, Wabash had a duty to control the actions of the fraternity and its members. He also claimed that by having policies prohibiting hazing, the college had a duty to monitor the conduct after receiving several other reports of hazing by the fraternity. Wabash sought summary judgement claiming that it was not liable for the criminal attack or alleged negligence as a college or landlord. The court found that since the local fraternity was leasing the property they had exclusive right to control the property. This finding relieved Wabash College of any duty of care.

In the same article published by Kerri Mumford, she makes the claim that it is time for both Greek organizations and universities to play a role in preventing injuries; when safety measures fail it should be left to the universities, local chapters, and national organizations to take responsibility<sup>39</sup>. For several years following the end of *in loco parentis* in the 1970's, universities have escaped liability for fraternity-related injuries based on the "no duty" precedent that the Court system established<sup>40</sup>. However, today since universities have taken a more active role in student life and activities, Mumford feels that they should not continue to escape liability<sup>41</sup>. She also expresses that universities should have equal liability as national fraternities because they exercise equal, if not greater discretion over local fraternity chapters<sup>42</sup>.

In an article by Spring Walton regarding social host liability for fraternities, he believes that colleges and universities have a professional duty to minimize the risk of harm to students by educating them about the effects of alcohol. He claims that universities have a closer



relationship to fraternities on campus so they should take active roles in curbing high risk drinking activities<sup>43</sup>. There are several ways to educate students about the harmful effects of alcohol: informational sessions, annual “alcohol awareness” month, and even required health class focused on alcoholism and mature drinking<sup>44</sup>.

Reviewing case law and literature regarding the liability of fraternities does not provide a clear “correct answer.” All parties involved have to take some form of responsibility in the event that a student is seriously injured or killed as a result of a fraternity event. Universities are beginning to play a bigger role in the daily lives of students, however, there is very little evidence that supports the notion that universities play a larger role with local organizations than their national headquarters. Responsibility to educate members of Greek community about the harmful effects of alcohol does lie with the university. If universities have strong anti-hazing policies and implement effective alcohol awareness programs, it can reduce their risk of liability in the event that an accident occurs. It is the primary goal of universities to educate their students so this should entail how to drink responsibly.

It is also beneficial to the university to educate chapter leaders about how to be effective in leading their chapter. It should be the goal of the Fraternity and Sorority Life (FSL) offices to educate the fraternity and sorority leaders and encourage them to set examples for members of their chapter. By giving them the necessary tools they need to thrive as leaders the university can then leave the governing of the chapter to the President or executive board. They can be left to make decisions about the actions of their chapter. They should also be provided with minimum expectations of the university and a strong anti-hazing policy.

Before researching this topic, I was stunned every time I read the news because it was unfathomable that universities, such as the University of Oklahoma, were treading all over students' rights. Several universities even went as far as to shut down the entire organization because of one or two member's actions. I have spent the last four years learning about different types of law and how the Constitution plays a major part in all of them, especially the Due Process Clauses of the 5<sup>th</sup> and 14<sup>th</sup> Amendments so it was a shock to me to see student expelled over expressing their First Amendment Rights and fraternities shut down as a result. However, in my tenure at Indiana State University, I have never learned how those Clauses actually apply to higher education until this project; I did not know what, if any, rights that Greek organizations had. Through this research I learned how the 5<sup>th</sup> and 14<sup>th</sup> amendments are applied to university disciplinary procedures, how the hearings themselves work, and to how decisions are reached.

The purpose of this project was to understand how scandals involving Greek organizations were investigated by universities and who held the most responsibility in a lawsuit: the university or the Greek organization. This is of great interest to me not only as a Greek leader on campus, but as an aspiring attorney. I conducted a thorough review of sixteen universities' policies, studied credible investigative journalism pieces and publications posted by Individual Rights activist organizations. I also used the knowledge I have of the Constitution from previous classes at ISU and knowledge I learned from assigned reading from current classes to understand the process of how University disciplinary sanctions work.

This semester for my Gender Activism in Theory & Practice class we were tasked with reading the book, *Missoula: Rape and the Justice System in a Small Town* by Jon Krakauer. While the book is focuses on rape allegations of players on the University of Montana's football

team, it sheds light on how the University's disciplinary procedures work. The procedures discussed in the book, chaotic and broken at times, are very similar to the procedures described by the sixteen universities I researched for my thesis. In the book, the conduct was reported to the Dean of the university who then sent out a notice to the accused outlining the claims against him. The accused met with the Dean to go over the accusations and present any evidence that might clear him of the charges. The Dean then made the decision whether or not the student was "guilty" of the charges against him and announced the sanctions, which usually came in the form of expulsion. The student could then appeal the sanctions to a committee consisting of impartial faculty, staff, and students who would hear evidence presented by both sides. The student was allowed to have "counsel" during the hearing who could speak to the student, but could not address the committee. In the novel this person was usually an attorney but it could have been anyone the student chose. While there are blatant differences between the novel and other universities' policies, having a basic understanding of the layout of such hearings helped me significantly when I read through the policies of each university.

The Due Process Clauses of the 5<sup>th</sup> and 14<sup>th</sup> Amendments do not openly apply to Greek organizations on college campuses through the United States Constitution, but through most University's Codes of Conduct. Half of the Universities I explored explicitly stated that the Code of Conduct applied to all students AND all registered student organizations. The importance of understanding the difference between public and private institutions was significant in this project. Public institutions have more stringent rules about accommodating students' rights than private institutions because they are state institutions that receive government funding. Private institutions are bound to the promises they make in their respective Code of Conduct. It is also important to understand who bears the most responsibility in the event of someone being sued.

This provides reasoning behind the stringent rules that universities use to govern Greek organizations. Throughout the years the reasoning behind legal decisions has changed, but today the responsibility most frequently sits with the local and national Greek organization. The University's role has changed from *in loco parentis* to simply an oversight figure in terms of Greek organizations. As a result, the Courts have determined that the amount of responsibility they hold in controlling such organizations is minimal.

The overarching question that I was looking to answer through this project was how universities could shut down an entire Greek organization due to the actions of a small portion of the chapter. Several universities had clauses in their Codes of Conduct, especially the universities who had separate Organization Code of Conduct that held the entire organization responsible if the conduct met certain criteria. For example, at the University of Oklahoma, the Sigma Alpha Epsilon fraternity was closed after a video surfaced of a racist chant being sung by members on a bus to their formal event. The University was able to deliver just Due Process and shut down the entire fraternity because a significant number of officers were aware of the behavior and took no actions to stop it, members were singing the chant on behalf of the organization, and a significant amount of alumni were discovered to have condoned the chant.

There is one major flaw with this research project: the topic of rights of Greek organizations as a whole is vastly underdeveloped. I was unable to find scholarly books or articles that pertained to this topic. I found case law and scholarly articles that related to the topic of who is responsible if the organization and university gets sued, but not the rights of Greek organizations. To fill in the gaps, I focused my research on existing university policies,

investigative journal pieces, and case law. I was able to find an organization that focused on Due Process and how it applied to higher education to guide my research into the actual policies.

Greek life is exclusive, but it is not above the law or university policy; as most universities have shown, the exclusivity of Greek organizations does not warrant its own disciplinary policy. This project is relevant to more than just Greek organizations. The research detailed throughout this paper is relevant to all student organizations on college campuses. None of the sixteen universities I investigated had a specific policy for Greek organizations, even the few universities who have a separate policy for student organizations. So this applies for every organization whether it is the History Club, Debate Club, or the Biology Club. Greek organizations are more likely to be scrutinized due to their presence in the media for incidences involving hazing, drinking, and sexual assault. The topic of Greek organizations in the news will continue to grow over the next several years as the involvement in such organizations continues to spread like wild fire. I am confident in saying that should any organization, especially a Greek organization, find itself in front of the disciplinary panel, that proper Due Process will be served so long as the Universities follow the guidelines set by their own policies and procedures.

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<sup>1</sup> Aja Frost, "Viewpoint: The Time Has Come to End Frats."

<sup>2</sup> San Jose State General history of fraternities and sororities in the United States ,

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Bonzo, Hannah "History of Greek Life in American Higher Education."

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Kinkade, Tyler "Emails Show How Quickly the Oklahoma SAE Scandal Unfolded."

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- <sup>17</sup> Jesse, David, “Party’s over for Frat after Ski-Resort Rampage.”
- <sup>18</sup> Farlex Legal Dictionary, Due Process of Law definition
- <sup>19</sup> Foundation for Individual Rights and Education, explanation of Due Process in Higher Education
- <sup>20</sup> Foundation for Individual Rights and Education, explanation of Due Process in Higher Education
- <sup>21</sup> Bridget Butwin, Political Science 317 Lecture
- <sup>22</sup> Bridget Butwin, Political Science 317 Lecture
- <sup>23</sup> *Goss v. Lopez*, 419 U.S. 565 (1965)
- <sup>24</sup> *NCAA v. Tarkanian*, 488 U.S. at 192 n.12
- <sup>25</sup> Foundation for Individual Rights and Education, explanation of Due Process in Higher Education
- <sup>26</sup> *Ibid.*
- <sup>27</sup> *Ibid.*
- <sup>28</sup> U.S. Department of Education, Office of Civil Rights. Explanation of Title IX.
- <sup>29</sup> San Jose State University Code of Student Conduct
- <sup>30</sup> Foundation for Individual Rights and Education, explanation of Due Process in Higher Education
- <sup>31</sup> *Ibid.*
- <sup>32</sup> *Ibid.*
- <sup>33</sup> *Ibid.*
- <sup>34</sup> *Ibid.*
- <sup>35</sup> *Ibid.*
- <sup>36</sup> *Ibid.*
- <sup>37</sup> *Ibid.*
- <sup>38</sup> Kerri Mumford, Who Is Responsible for Fraternity Related Injuries on American College Campuses?
- <sup>39</sup> Kerri Mumford, Who Is Responsible for Fraternity Related Injuries on American College Campuses?
- <sup>40</sup> *Ibid.* p. 3
- <sup>41</sup> *Ibid.*
- <sup>42</sup> *Ibid.*
- <sup>43</sup> Walton, Spring, "Social Host Liability: Risk for Fraternities and Student Hosts"
- <sup>44</sup> Walton, Spring, " "Social Host Liability: Risk for Fraternities and Student Hosts"

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