

EXAMINING EQUITY IN UNIVERSITY STUDENT CONDUCT ADJUDICATION:  
A PHENOMENOLOGICAL INVESTIGATION OF  
ADMINISTRATIVE RESOLUTION

by

Emily Anne Schuff

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## DEDICATION

I humbly dedicate this dissertation to other women and girls who have been denied the opportunity to pursue their education and goals. It was pure luck that I was born at this time and place, and that I have been encouraged and enabled to pursue a terminal degree. It is with humility that I offer this work as an acknowledgement to women before and after me; a contribution to the greater plight for women's equality, safety, and prosperity. I will use my privilege and educational accomplishments to empower and educate other women so that together, we may all rise.

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## TABLE OF CONTENTS

1. INTRODUCTION .....	1
Interactive Orientation: Brain Breaks .....	1
Background .....	2
Problem Statement .....	7
Purpose Statement .....	8
Research Questions .....	8
Research Design .....	8
Key Findings .....	10
Statement One .....	10
Statement Two .....	10
Statement Three .....	11
Assumptions .....	11
Limitations .....	13
Delimitations .....	14
Significance .....	14
Researcher Positionality .....	15
Researcher Background .....	16
Influence on this Study .....	17
Operational Definitions .....	18
Chapter Summary .....	21
Brain Break .....	22
2. BACKGROUND AND LITERATURE REVIEW .....	23
Introduction .....	23
Diversity, Equity, and Inclusion in Student Affairs .....	23
DEI and University Student Conduct .....	24
The Science of Implicit Bias .....	26
Bias and the Brain: Biology, Efficiency, and Evolution .....	27
Neuroeducation as an Emerging Discipline .....	32
Bias and Socialization: Social Identity Theory .....	33
Gaps in the Literature .....	34
History of University Discipline .....	35
Comparing Apples to Oranges: CRDC vs. Clery .....	40
Politicization of Equity in Education .....	41
Filling the Gap: Professional Associations .....	42
Chapter Summary .....	45
Brain Break .....	46

## TABLE OF CONTENTS CONTINUED

3. METHODOLOGY .....	47
Research Questions .....	47
Research Design and Rationale .....	48
Phenomenology .....	49
Interpretive Phenomenology .....	49
Philosophical Assumptions .....	50
Ethical Considerations .....	51
Population and Sample .....	51
Population .....	51
Sampling Technique & Sample .....	52
Sample .....	53
Data Collection and Analysis .....	54
Pre-Research .....	54
Data Collection .....	55
Participant Descriptions .....	57
Data Analysis .....	57
Phase One .....	58
Phase Two .....	59
Themes and Research Questions .....	60
Study Rigor .....	63
Trustworthiness .....	63
Credibility .....	64
Dependability .....	65
Confirmability .....	65
Transferability .....	66
Chapter Summary .....	66
Note from the Researcher .....	67
Brain Break .....	69
4. FINDINGS .....	70
Participant Descriptions .....	71
Presentation of Findings .....	72
Statement One .....	73
Statement Two .....	73
Statement Three .....	73
Hermeneutic Statements and Supporting Themes Expanded .....	74

## TABLE OF CONTENTS CONTINUED

Statement One .....	74
Supporting Themes: Pre-understanding and Study Value .....	74
Researcher Experience .....	74
Study Value .....	76
Statement Two .....	77
Supporting Themes: Institution, Resources, Personal and Professional Experiences, and Student. ....	78
Institution .....	79
Available Resources: Finances, Staffing, and Software .....	82
Personal and Professional Experiences .....	84
Personal Experiences .....	85
Professional Experiences .....	86
Student: Resources, Parental Involvement, Attitude, Honesty, and Accountability .....	88
Student's Available Resources .....	89
Parental Involvement .....	91
Student Attitude, Honesty, and Accountability .....	93
Statement Three .....	97
Collaboration .....	97
Spectrum of Resolution Options Integration .....	100
Reflection and Intention .....	101
Chapter Summary .....	103
Statement One .....	104
Statement Two .....	104
Statement Three .....	104
Brain Break .....	105
5. DISCUSSION AND CONCLUSION .....	106
Study Overview .....	106
Summary of Key Findings .....	107
Revisiting Study Assumptions .....	111
Limitations of Findings .....	114
Contributions to the Literature .....	116
University Conduct Adjudication .....	116
The Science of Implicit Bias .....	118
Implications for Future Research .....	118
University Conduct Adjudication .....	118

## TABLE OF CONTENTS CONTINUED

Implications for Practice.....	120
Elevating Credentials for Conduct Administrators .....	121
Opt-in Aggregate Database for University Discipline Data .....	122
Conclusion .....	124
Closing Brain Break.....	125
REFERENCES CITED.....	127
APPENDICES .....	139
APPENDIX A: IRB Approval .....	140
APPENDIX B: ASCA Research Protocol .....	142
APPENDIX C: ASCA Conditional Approval Rubric .....	146
APPENDIX D: ASCA Approval Letter .....	150
APPENDIX E: Participant Recruitment Email .....	152
APPENDIX F: Participant Consent Form .....	155
APPENDIX G: Interview Questions And Protocol.....	158
APPENDIX H: Participant Description Microsoft Form .....	162
APPENDIX I: Brain Break Handout .....	166

LIST OF TABLES

Table	Page
1. Phase One Analysis: Initial Themes. ....	59
2. Participant Characteristics. ....	72

LIST OF FIGURES

Figure	Page
1. Spectrum of Resolution Options.....	6
2. Neurosequential Model.....	29

## ABSTRACT

University Conduct Administrators independently manage university discipline programs with minimal guidance and oversight from the U.S. Department of Education to ensure compliance with civil rights laws. Informal resolution through administrative agreement typically involves a one-on-one discussion between a conduct administrator and student in which the alleged policy violations are discussed and resolved through mutual agreement. This commonly applied traditional adjudication pathway positions the student as particularly vulnerable to the knowledge, skills, and disposition of the administrator managing their case. The Office of Civil Rights under the U.S. Department of Education has never conducted a postsecondary cross-institutional assessment for disparate discipline practices, despite having published a comparable analysis of disturbing disparities among Black and Hispanic males and students with disabilities within public K-12 institutions. This interpretive phenomenological study examines the experiences of 11 university conduct administrators who resolve university misconduct administratively to better understand the intersection of professional discretion and case context as they relate to decision making and case outcomes. Aligned with the method chosen for this study, the researcher, an in-group member of the study population, offers her pre-understanding and location to the problem of practice as reflective tools used in research design and interpretation of findings. Findings include three hermeneutic statements which are supported by themes extracted through the pursuit of the hermeneutic circle. The findings emerging from this study are bound to the experiences of study participants; it is through the interpretation and curiosity of those reading this paper that value is generated.

## CHAPTER ONE

## INTRODUCTION

This phenomenological study examines the experiences of university-level conduct administrators who practice administrative resolution to adjudicate alleged university student misconduct. This dissertation is a traditional five-chapter manuscript; chapter one includes an introduction to the study, problem statement, purpose statement, guiding research questions, research design, assumptions, findings, significance, limitations, delimitations, researcher positionality, and operational definitions. Chapter two includes a review of literature and background information including the science of implicit bias, a history of university conduct adjudication, current best practices, and gaps in the literature. Chapter three outlines the research design and rationale including methodology, philosophical assumptions, data collection and analysis protocols, population, sampling techniques and sample, ethical considerations, trustworthiness, credibility, dependability, confirmability, and transferability. Study findings are presented in chapter four; chapter five offers a discussion and conclusion including implications for practice and future research.

Interactive Orientation: Brain Breaks

At the conclusion of each chapter, readers will find a series of “Brain Breaks.” These interactive opportunities push and pull the reader between the paper’s fourth wall, the imaginary boundary between the audience and author, to foster reflexive, “deep thinking.” Dibley, Dickerson, Duffy, and Vandermause suggest “the value of hermeneutic work lies in the way it is received by others, the way in which the interpretation changes the audience” (2020, p.158). The

“Brain Breaks” offer structure for readers as they “dwell within the data.” The amorphous nature of explicating human experience can be challenging to grasp, even for the most advanced philosophers. I encourage you to participate in the designated “Brain Breaks” as you feel comfortable; the collective prompts are also located in Appendix I. The ethical considerations for participants of this study included the possibility of experiencing mild emotional discomfort after engaging in critical self-examination, particularly if the reflection results in cognitive dissonance. I offer the same ethical consideration to you as readers; the sensitive nature of the material in this study may elicit an uncomfortable emotive response. It may also promote feelings of enlightenment and curiosity that can serve to benefit readers by expanding their perspectives. My objective is to minimize harm, maximize benefits, and facilitate connection between the reader and the content of this paper. The ethical implications for this study are located in chapter three. Readers seeking additional information about cognitive dissonance will find this in the operational definitions.

### Background

American college and university discipline programs are as unique and independent from each other as the institutions themselves. Unlike public K-12 discipline programs (kindergarten through twelfth grade; free, compulsory education in the United States) public postsecondary discipline programs have limited oversight and guidance from the United States Department of Education (ED) to ensure equitable and consistent resolution of student misconduct (see chapter two for a detailed examination of the differences between these two systems). No question, university conduct administrators are weary of federal intervention in university conduct programs; institutional autonomy allows administrators to balance both legal and developmental

elements critical for student learning by customizing their approach to the student populations they serve (Schrage & Giacomini, 2020). Further, postsecondary staff and administrators have been caught between polarized political agendas for the last two decades, fostering mistrust and incredible frustration regarding conflicting regulatory and sub-regulatory requirements for Title IX of the Educational Amendments of 1972 (U.S. Department of Education Office for Civil Rights, 2001, 2006, 2011, 2014, 2015, 2017; Schrage & Giacomini, 2020, p. 60-61).

In 2014, the Office of Civil Rights (OCR) under the ED published a critical analysis of disciplinary data reported by K-12 public schools highlighting disturbing disparities in disciplinary referrals and sanctioning practices against young African American males, Hispanic males, and students with disabilities (U.S. Department of Education "Civil Rights Snapshot," 2014, Discipline Disparities for Black Students, 2018). The ED subsequently issued a groundbreaking guidance package for K-12 teachers and administrators to combat disparate discipline practices, citing implicit bias as one key element fueling inequity in American public schools (U.S. Department of Education "Guiding Principles," 2014). Upon reviewing this report, I wondered how the findings for disparate discipline for public K-12 schools might relate to postsecondary conduct programs. The ED has yet to review postsecondary discipline programs for disparate conduct practices and no comprehensive guidance package on equity in college and university conduct adjudication has ever been offered by the ED (S. Lewis, personal communication, January 2022). The United States ED lacks the legal and procedural mechanisms necessary to accomplish a cross-institutional quantitative analysis of postsecondary discipline data for the explicit purpose of exploring equity in university student conduct. (Lancaster & Waryold, 2008; J. Meyer Schrage, personal communication, March 23, 2022).

Professional associations like the Association for Student Conduct Administration (ASCA) work to fill the gap under the ED by synthesizing legal precedent and offering knowledge competencies and best practices for student conduct administrators; however, affiliation with these associations is not required under the OCR and often involves a commitment of financial resources through membership dues, conference travel and registration, and training costs which not all institutions can sustain. According to the National Center for Educational Statistics, there were 5,916 postsecondary institutions receiving Title IV funding in 2021-2022 (National Center for Education Statistics, 2022); of those, 2,637 institutions granted four-year degrees and 1,892 were public. ASCA reported 1,051 institutional memberships (ASCA, 2021, state of the association) and 2,400 individual memberships in 2022 (ASCA, 2021, state of the association). Currently, no specialized advanced degree program exists for the explicit role of University Conduct Administrator (UCA) despite the increasing complexities and judicialization of university conduct as a profession (Glassman, 2021). Currently, practitioners are not required to demonstrate any competency hours, complete observation hours, or complete a standardized examination to work in these types of postsecondary adjudicatory roles. Short of limited due process procedural elements required by the ED (see chapter two), students participating in a university's discipline program are particularly vulnerable to the knowledge, skills, and disposition of the UCA managing their case(s) (Lancaster & Waryold, 2008; Waryold, Lancaster & Kibler, 2020; Schrage & Giacomini, 2009, 2020).

Despite the often kind and egalitarian nature of many professionals in student affairs, no person, no matter how benevolent their profession or personal values, is immune to their unconscious associations and implicit biases (Staats, 2015; Staats, Capatosto, Wright, & Jackson,

2016; Banaji & Greenwald, 2013). Holmes, Edwards, Greenfield King, and DeBowes present a critical analysis of social justice work in university student conduct in the 2020 edition of *Reframing Campus Conflict: Student Conduct Practice through the Lens of Inclusive Excellence* (Schrage & Giacomini). Practitioners themselves, the authors examine individual experiences of oppression, systemic oppression in higher education, and responsibility for the unique power and privilege the UCA has on campus. The emerging call for multi-partiality in university conduct as a discipline encourages individual self-reflection, skill development, and institutional accountability to counter unconscious bias in our work; however, this assumes that UCAs will have access to resources necessary for this pursuit and work for institutions that have invested in a range of resolution options. There remains little external motivation for a postsecondary institution to proactively invest resources into student conduct programs; a sentiment expressed by several participants in this study. Several of the participants in this study communicated a feeling that the university conduct office is of little interest to an institution until a case with high potential for legal liability or bad press arises. The findings of this study suggest that several barriers remain for UCAs that impede their ability to integrate emerging best practices like alternative or restorative resolution pathways (Schrage & Thompson, 2008).

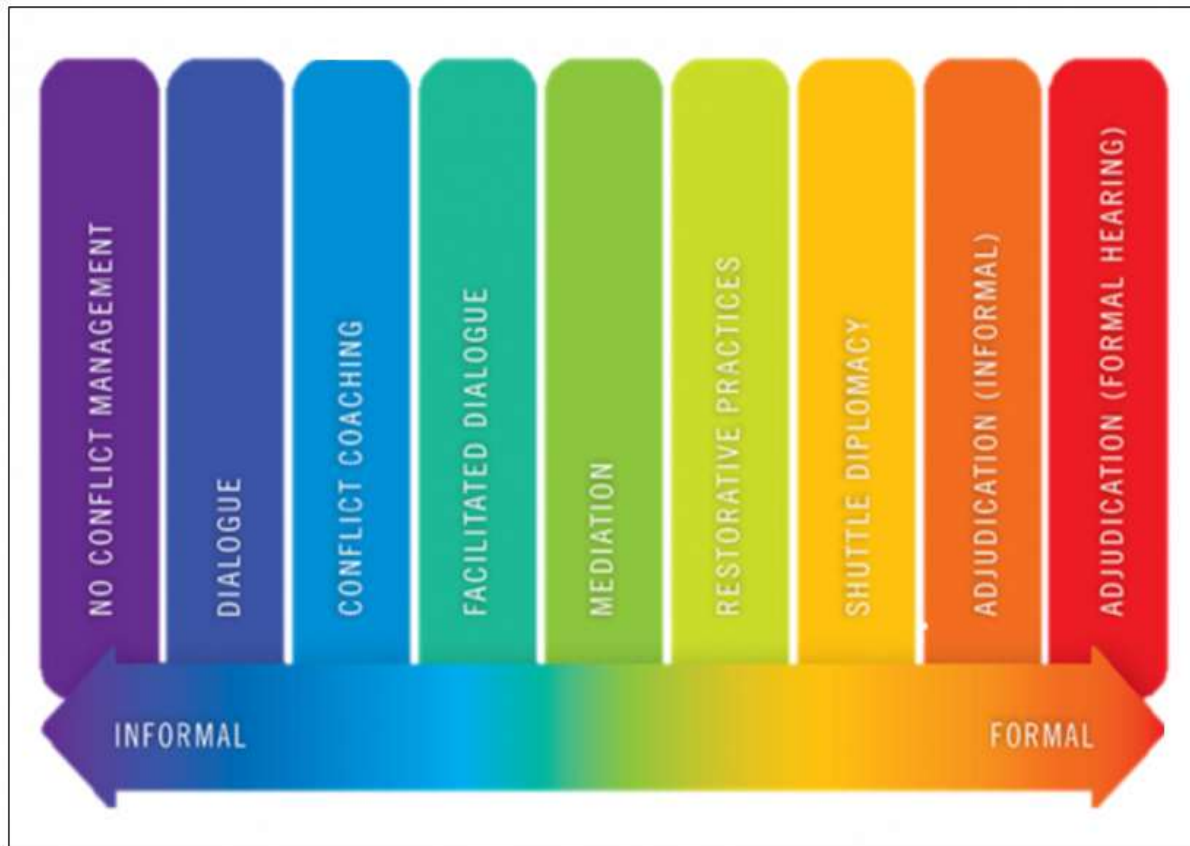


Figure 1. Spectrum of Resolution Options, Jennifer Meyer Schrage and Monita C. Thompson (2008). This model represents a spectrum of conflict resolution options for student conduct adjudication on a continuum of least to most formal.

Administrative resolution, a traditional resolution option for university student misconduct, lies within the formal pathways on Meyer Schrage and Thompson’s Spectrum of Resolution Options model (2008). Administrative resolution is presented in the orange column of the Spectrum of Resolution Options, named “adjudication (informal).” This resolution pathway is the primary phenomenon investigated in this study; the objective is to understand experience of informal adjudication from the perspective of the conduct professional resolving the case administratively. The “informal” yet “formal” adjudicatory pathway appears to me to be misunderstood within the field of university conduct adjudication, although additional policy

analysis is required to reveal how vast the interpretation is within the profession. In my experience, administrative resolution is by far the most frequent method of resolving university misconduct because it requires the least consumption of resources and is timely for both the discipline office and student. Participants in this study individually referenced this adjudication pathway as “administrative conference, informal agreement, administrative agreement, administrative hearing, informal resolution, informal meeting, administrative review, mutual agreement, and conduct hearing.” As referenced in the literature, this one-on-one “formal” yet “informal” agreement between student and administrator rests within the boundaries of legal precedent. Current best practices recommend providing a range of resolution options for students to choose from (Meyer Schrage & Giacomini, 2020); however, this is not always possible for institutions to accomplish.

### Problem Statement

University conduct programs lack clear guidance and oversight from the OCR under the ED to ensure equitable and consistent resolution of postsecondary student misconduct. Administrative resolution, a commonly applied "traditional" adjudicatory pathway, is particularly problematic for issues of equity in conduct adjudication. The one-on-one nature of this "informal resolution" positions the alleged student to be more vulnerable to the knowledge, skills, and disposition of the administrator managing their case.

### Purpose Statement

The purpose of this study is to explore how University Conduct Administrators (UCAs) experience administrative resolution to better understand how their personal and professional experiences and biases may influence their work.

### Research Questions

- 1) How do UCAs experience administrative resolution?
  - a. How might the personal experiences of UCAs influence administrative resolution?
  - b. How might the professional experiences of UCAs influence administrative resolution?
- 2) How do UCAs navigate professional discretion and case context during administrative resolution?
- 3) What insight do UCAs have regarding their own implicit biases?

### Research Design

Hermeneutic, or interpretive phenomenology, was selected for this study because it positions the researcher's lens as a valuable tool and necessary element of research design (Boden & Eatough, 2014; Valle & King, 1978; Creswell & Poth, 2018, p. 75; Dibley, et al., 2020) Gadamer, 2008; Horrigan-Kelly, Millar, & Dowling, 2016; Kockelmans & Kisiel, 1970; Moustakas, 1994; Peoples, 2021; Polkinghorne, 1989; Vladutescu, 2018). My professional experience provides unique proximity to the phenomenon in question, administrative resolution

of university misconduct, and contributes to my “pre-understanding,” an essential foundation within interpretive phenomenological inquiry (Vladutescu, 2018; Dibley et. al., 2020). Data collection and analysis protocol for the study were informed by Heidegger’s philosophy of interpretive phenomenology and Hans-Georg Gadamer’s six elements of the hermeneutical process (Gadamer, 2008; Vladutescu, 2018). Data collection and analysis include individual semi-structured virtual interviews, participant collaboration, researcher memoing, transcription, theming, member checking, and hermeneutic summaries. The investigatory process occurred within a spiraling hermeneutic circle, first for each individual participant, and again as a cross-case synthesis until a “fusion of horizons” was accomplished (Dibley et al.; 2020, Vladutescu, 2018; Gadamer, 2008).

The study examines the experiences of 11 University Conduct Administrators (UCAs) from 11 different public postsecondary institutions. The study was conducted by a single researcher, a doctoral candidate supervised by a dissertation committee of four professionals. The population for this study was limited to UCAs from public postsecondary institutions in the United States who belong to the Association for Student Conduct Administration (ASCA). Two sampling methods, purposeful (Creswell & Poth, 2018) and snowball (Dibley et al., 2020; Peoples, 2021) were selected to recruit participants with the appropriate niche knowledge and experience relevant to the study. The study was conducted with permission from the ASCA Research Board; the reader should note the following disclaimer:

The ASCA Research Committee’s permission to study the Association’s membership is in no way an endorsement of the study or its merits. The Association takes no responsibility for the utilization of study results by individual researchers nor ownership of said data (ASCA, n.d.).

The results of the study will be presented at an ASCA annual conference concluding my dissertation defense. I look forward to gleaning new insights from my peers and colleagues in the field of university conduct adjudication.

### Key Findings

The experience of adjudicating university student conduct through administrative resolution is unique to those who practice the phenomenon in their professional role within higher education. The findings in this study demonstrate a snapshot of participant experiences which can be used to raise the consciousness of the audience and expose areas for practical application and improvement in university student conduct adjudication. Findings are limited to the scope of this study, exploring university conduct administrator's experiences with administrative resolution. The study's key findings are presented in the following three hermeneutic statements:

#### Statement One

The issues of consistency, bias, and equity regarding administrative resolution of university student conduct adjudication are of concern to university conduct administrators. Supporting themes include affirmation of my pre-understanding and study value.

#### Statement Two

University conduct administrators experience administrative resolution differently; institutional policy and procedure, available resources, individual experiences, and students may contribute to this variance. Administrative resolution as a pathway to resolve university student

conduct is interpreted and applied differently among institutions and administrators. Supporting themes include institution, resources, personal and professional experiences, and student.

### Statement Three

University conduct administrators have insight into their own biases and appreciate the value equity; currently, they are unlikely to be substantiating this sentiment with consistent and objective review of case data. University conduct administrators have resources to “do the work;” however, resources and support to integrate emerging best practices remain a barrier to move “beyond the work.” Supporting themes include collaboration, Spectrum of Resolution Options integration (Schrage & Thompson, 2008), fundamental fairness, reflection, intention, and data evaluation.

### Assumptions

The philosophical assumptions of this paper are oriented by the researcher’s positionality and the methodology selected for the study. Interpretive phenomenology leverages the biases of the researcher and participants and will not be bracketed, or set aside, as is the case with transcendental phenomenology (Dibley et al., 2020; Peoples, 2021; Moustakas, 1994). Detailed philosophical assumptions for this paper are located in chapter three. The study also assumes the following statements are true:

- Participants understood the population criteria for the study and self-selected to participate based on the following criteria: Conduct administrator at a public, four-year postsecondary institution in the United States with experience resolving non-academic misconduct through administrative resolution *and* who were members of the Association

for Student Conduct Administration (ASCA). Preference was given to those with residential campus experience.

- Participants employed at public institutions are assumed to understand and adhere to due process elements established for public postsecondary institutions receiving Title IV funding from the United States Department of Education.
- Participants are members of the Association for Student Conduct Administration (ASCA) and understand and adhere to the expectations and competencies outlined by the ASCA defined in the association's code of ethics (ASCA, 1993).
- Participants were consenting adults who, upon agreeing to participate, read and understood the nature of the study and agreed to respond to interview questions truthfully. Participants understood they could skip or “pass” any question at any time which they did not wish to answer.
- The research design and interpretation reflect the biases of the researcher. Standards for rigor within interpretive phenomenology were identified and practiced during each stage of the study, these are further outlined in chapter three.
- The audience will consider their own biases and experiences as they relate to study and use the findings to examine the phenomenon as it applies to their own practice in university conduct administration.
- The methodology selected for this study should remain a critical component of audience consideration; the intention of the study is not to provide a positivist or exact explanation of facts. The social constructionist ontology should not be considered a limitation of the

study but should guide the reader as they consider elements of research design and interpretation.

### Limitations

The sample includes 11 participants from 11 different public institutions of higher education. Participant's institutions are located in 11 different states which maintain different protocols and legal expectations for university student conduct adjudication. State interference with university student conduct adjudication is an emerging trend (Schrage & Giacomini, 2020); although not the focus of this study. The wide range of institutional policies and procedures each participant adheres to are a noteworthy limitation of the study; however, reasonably reflects institutional autonomy within the field of university student conduct which is necessary for the individualization of each institution's discipline program. Although most institutional policies for university conduct codes are still founded upon Stoner and Lowery's Model Code (2004), each participant's experience with administrative resolution is different, depending on institutional process and resources. This is identified as one key finding of the study, see chapter four.

Nine of the eleven participants have five or more years of professional experience in university conduct adjudication; only one participant did not hold a graduate level degree in adult and higher education, student affairs, higher education leadership, or another qualifying field. The homogenous professional experience and education of participants in this study was necessary to capture an appropriate sample. This fact is both a limitation and assumption of the study due to the nature of the phenomenon in question.

### Delimitations

Private postsecondary institutions were excluded from the study as they do not adhere to the same constitutional requirements for due process as public universities (Stoner & Lowery, 2004; Lancaster & Waryold, 2008; Waryold, Lancaster, & Kibler, 2020; Smith, 2011). Public two-year colleges and community colleges were also excluded from the study; across my professional experience working for 1) a community college, 2) private institution, 3) land grant residential university, and 4) two-year technical college, there are far fewer conduct incidents at two-year colleges than four-year universities with residence halls. Mid-level conduct administrators and chief conduct officers were included in the study whereas entry-level conduct administrators were excluded. Semi-structured interview protocol is a recommended data collection method for interpretive phenomenology (Dibley et al., 2020). It also serves as a delimitating factor by providing space for participants to contribute additional questions and insight not yet considered by the researcher. Expert consultations were conducted at several stages of research design; this included discussing the study topic and limitations with a leading civil rights attorney in the field of higher education law and a co-author of the Spectrum of Resolution Options model. Their thoughts and considerations were included in the literature review; three professional student conduct administrators were consulted for data collection and interview protocol design.

### Significance

This study contributes to the greater body of university conduct research, addressing gaps in the literature around equity and bias in postsecondary conduct adjudication. Significant gaps

in the literature exist which examine implicit bias in university conduct adjudication, particularly biases of the conduct administrator in their decision-making process. This study brings attention to inconsistencies in data collection and reporting required by OCR the ED for K-12 discipline programs and conduct programs in higher education. The study contributes to the academic discussion of oppressive systems perpetuated by higher education and inequities often disproportionately experienced by students of color, students with disabilities, and students from marginalized backgrounds. The study may raise the consciousness of conduct administrators and institutional leadership to examine resources dedicated to conduct offices. It is my goal that this study prompt university conduct administrators to critically examine administrative resolution more deeply and truthfully reflect on investments they have made that ensure checks and balances are in place to ensure equitable and consistent case management and resolution.

### Researcher Positionality

Heidegger's interpretive phenomenology suggests the researcher's situatedness to a phenomenon is an asset to the explication of data and interpretation of results (Dibley et al., 2020). My experiences as a conduct administrator and academic researcher merge within this study to create a platform for me to examine administrative resolution of student conduct in a unique way which could not be done by excluding either identity. The researcher positionality is typically presented in chapter three of a standard five-chapter manuscript; I have chosen to present my positionality in chapter one to orient the reader to my location as a participant-researcher. My pre-understanding of the phenomenon, administrative resolution of university student misconduct, is the foundation for the design, interpretation, and presentation of this study. Gadamer's elements of interpretive phenomenology require the researcher to reflexively

revisit the established pre-understanding during all phases of research. The development and use of the researcher's pre-understanding serves to demonstrate rigor within interpretive phenomenology, it also allows for biases to be named, examined, and managed appropriately so as not to lose the essence of participant experience (Dibley et al., 2020).

### Researcher Background

I am a female, first-generation college student from a large, blended white family in the western United States. I did not belong to the dominant religion in the community I grew up in and was often excluded because of this. My family is justice oriented, civically engaged, and prioritizes kindness and character over material gains. I attended a small, private, Catholic, liberal-arts university in a rural western city and earned a Bachelor of Arts degree in history. My undergraduate education was funded by a combination of Pell-grants, scholarships, federal student loans, and income I generated by working while attending school.

I completed my first graduate degree at a public land grant institution in the western United States. I hold a Master of Arts in Adult and Postsecondary Education and my research interests during the pursuit of that degree included support services for at-risk college students, support for staff from low-income backgrounds, first-generation college students, student conduct, student success initiatives, and support staff satisfaction. I funded this graduate degree by working as a full-time state employee at a community college in the state which my university was located. I worked as a full-time, live-in student life professional responsible for university housing, residence hall policy violations, hiring and training student staff, campus emergency response, and served as a member of the institution's Title IX Investigation team.

My doctoral studies were also completed at a public land grant institution, located in a different rural western state. Over the course of my six-year pursuit of this final, terminal degree, I have maintained full-time employment in higher education serving in university housing, student conduct, and student life. My professional trajectory and academic research are deeply connected; my research interests currently include first-generation students, equity in student conduct adjudication, basic needs and support services for low-income, high-risk students. My current degree, a Doctor of Philosophy in Adult and Higher Education, Educational Administration, has been funded partially by the tuition waiver I receive as a benefit of my state employment, scholarships, and my personal expenses. I am an in-group member of the population for this study, I am also currently employed at a public, two-year postsecondary institution. At the time this study was conducted, I was not serving in a professional role responsible for the adjudication of university student misconduct.

### Influence on this Study

Researcher positionality and situatedness are valuable tools in the research design of an interpretive phenomenological study (Dibley et al., 2020). My background as a first-generation, low-income student has undoubtedly influenced my graduate research interests for over a decade. My career pursuit within student affairs suits these interests neatly; many of my professional responsibilities center on student support, student advocacy, non-academic resources, and compliance with higher education law. These “prejudices” as Gadamer calls them (Dibley et al., 2020; Gadamer, 2008), are ontological, epistemological, and axiological dispositions which cannot be removed from who I am as both a researcher and practitioner. It is the readers’ responsibility to consider the biases, positionality, and motivations of the researcher

as they generate their own meaning from the findings and discussion. Subjectivity should always be managed appropriately for the methodology selected; for interpretive phenomenology “subjectivity is the point” (Milner, 2007, 2018; Dibley et al., 2020, p. 73).

### Operational Definitions

- **Adjudication:** A process of informal or formal decision making with a third party who has the authority to determine binding resolution (Lancaster & Waryold, 2008).
  - **Adjudication (informal):** Referenced as a formal pathway on the Spectrum Model (Schrage & Thompson, 2008) this practice typically involves a one-on-one discussion between a conduct administrator and alleged student. Although institutional protocol varies, the student’s acceptance of charges and accountability often results in an “informal” resolution in which the student and administrator resolve the matter and agree upon an outcome (Schrage & Thompson, 2009). This resolution option is generally reserved for low-level incidents which do not include sanctions with serious implications for the student. This resolution option is the primary focus of this study.
  - **Adjudication (formal):** Judicial in nature, formal adjudication of university misconduct typically involves more procedural protection including a scripted hearing, decision panel, witness statements, and cross-examination. Formal adjudication is typically reserved for serious violations which may result in suspension or expulsion (Lancaster & Waryold, 2008).
- **Cognitive Dissonance:** Leon Festinger (1962), cognitive dissonance theorizes a motivating state where a person recognizes psychological inconsistencies with a desire to

make them more consistent (Festinger, 1962, p. 93). An example of cognitive dissonance might include expressing a belief inwardly as one thing and expressing it outwardly as another, i.e. a person may believe eating junk food is bad for their health but choose to do it anyway.

- **Due Process:** A right endowed to United States citizens named throughout our Constitution, the element of Due Process within student conduct adjudication became law in 1961 as a direct result of *Dixon v. The Alabama State Board of Education*, requiring the following procedural protections be provided to alleged students: Notice of charges, the right to be accompanied by an advisor, an opportunity to give testimony in one's own defense, to be provided all the evidence before them, and access to an appellate process (Lancaster & Waryold, 2008, p. 71-82; Schrage & Giacomini, 2009, p. 34-37)
- **Implicit Bias:** The attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner. Activated involuntarily, without awareness or intentional control. These can manifest as either positive or negative and are pervasive in human experience; everyone is susceptible. (Kirwan Institute, 2015; Greenwald & Krieger, 2006).
- **Preponderance of the Evidence:** The lowest burden of proof articulated by the courts, the preponderance of the evidence standard requires “the proof need only show that the facts are more likely to be than not so (Long, 1985, p. 74). The ASCA “advocates [the] application of the preponderance of evidence standard in all conduct proceedings” (Loschiavo & Waller, n.d.; Long, 1985).

- **Sanction:** Sometimes better understood as “natural consequences” (Lancaster & Waryold, 2008, p. 251) or mandated conditions imposed by a Conduct Administrator as a conclusion to the discipline process, sanctions issued to students for misconduct are often educational or restorative in nature (Lancaster & Waryold, 2008, p. 251; Schrage & Giacomini, 2009, p. 17-18). They serve to “hold accountable” or motivate behavior changes and often escalate with severity of offense and/or recidivism.
- **Spectrum of Resolution Model:** Developed by Jennifer Meyer Schrage and Monita C. Thompson (2008), the Spectrum of Resolution Options Model was first presented at the ASCA Gehring Academy as a continuum of conflict resolution options for conduct administrators founded in restorative justice and student development theory. The Spectrum Model can be used to address the varying situations university conduct administrators manage while maintaining “the ideal balance between implementing fair process and maintaining learning outcomes” (Meyer Schrage & Giacomini, 2009, p.66-67).
- **University Conduct Administrator:** Often referenced as a Conduct Officer, a University Conduct Administrator is a university or college official who has been granted authority to adjudicate alleged violations of an institution’s code of conduct and can issue findings and sanctions (Lancaster & Waryold, 2008, p. 58); this is frequently managed by staff in an office of the Dean of Students or Student Conduct. For this paper, the title “University Conduct Administrator” will be used to define this role and will be abbreviated to “UCA.”

### Chapter Summary

University Conduct Administrators (UCAs) maintain great authority over the management of alleged student misconduct at their respective institutions. The contractual nature of student and institution with limited due process elements under the law, and low threshold for burden of proof permit postsecondary institutions great agency over their conduct programs. Postsecondary conduct programs are largely unmonitored by the Office of Civil Rights (OCR) under the Department of Education (ED) regarding bias, equity, and consistency of procedure except for Title IX of the Educational Amendments of 1972. The OCR does not require postsecondary institutions to collect, monitor, or report discipline data disaggregated by demographic information as they do for K-12, compulsory institutions. There remains little motivation for postsecondary institutions to maintain these records and review them for the explicit purpose of identifying disparities, despite equity and fairness being a fundamental value held by professional associations and individuals in the field. Administrative resolution is a particularly problematic adjudication pathway because the individual nature of the resolution option paired with the preponderance of evidence standard situates students at the bottom end of a power differential in which they are more vulnerable to the values, skills, and disposition of the conduct administrator managing their case. Professional associations provide guidance and competencies for conduct professionals; however, there is no specialized advanced degree designed to prepare someone for the nuances of this type of adjudicatory role and zero required demonstrated competency hours within the profession.

The following chapter provides further background information and literature to support the study. It is my intention to provide the reader with a description of the current science of

implicit bias, debiasing literature as it applies to healthcare, law enforcement, and K-12 education, a brief history of university conduct administration, best practices, and current limitations.

### Brain Break

Interpretive phenomenological methods encourage deep thinking and reflection throughout the research process. I invite you to join me in the following hermeneutic inquiry and/or continue to chapter two.

1. I hope you will take a moment to ground yourself and consider your own assumptions and pre-understanding before you continue. To do this, you may wish to take a few deep breaths to quiet your mind and calm your nervous system (Jerath, R., Edry, Barnes, & Jerath, V., 2006). When you're ready, consider writing down a few initial ideas, opinions, or questions you have regarding implicit bias as a general topic.
2. If you are a university student conduct administrator, consider the operational definitions for informal and formal adjudication. You may wish to write your current understanding of the procedures at your respective institution and reflect on misconduct cases you have resolved administratively.

## CHAPTER TWO

## BACKGROUND AND LITERATURE REVIEW

Introduction

“The public knows that human beings are fallible. Only people blinded by ideology fall into the trap of believing in their own infallibility.” -Freeman Dyson (1998)

Chapter two includes background information and context to support this study by situating it within current literature. The introduction begins by locating diversity, equity, and inclusion competencies (DEI) as pillars within student affairs, holding to account lukewarm leadership and systemic failures for dated, reactive university conduct programs. This argument is followed by information about the human brain, the science of implicit bias and the state of bias research. The chapter includes a brief history of university conduct adjudication in the United States including relevant case law, current political affairs, and established best practices. I present gaps in the literature around disparate adjudication of student conduct at the postsecondary level and demonstrate how this study contributes to the greater body of student conduct research.

Diversity, Equity, and Inclusion in Student Affairs

Student affairs professionals are among the most inclusive, caring, and supportive staff members on any college campus. Working in the proverbial trenches, they are broad specialists who help college students navigate personal stress and relationships, mental health and well-being, belonging, identity exploration and other deeply personal non-academic life circumstances

(“NASPA competencies,” 2015). Diversity, equity, and inclusion competencies (DEI) are a pillar of our professional communities (“NASPA about,” n.d.; ASCA, 2013; Parle, Acosta, Anaya, Bryant, Harris, & Malyk, 2021; “ACPA values,” 2013; CAS, 2015) and yet some institutions continue to miss the mark on effecting sustainable positive changes that serve underrepresented staff, faculty, and students in higher education (Schrage & Giacomini, 2020). Individual DEI knowledge competencies for student affairs practitioners, conduct administrators included (Association for Student Conduct Administration Diversity Statement, n.d.), represent only the first level of work to improve our campus climates (Schrage & Giacomini, 2020). Individual DEI work is far less reaching than social justice initiatives rooted in a socioecological or critical framework (Greenaway & Turetsky, 2020; Bronfenbrenner, 1992). To the frustration of many professionals in student affairs, “the illusion of inclusion,” remains the status quo. It’s time for radical leadership and “stepping on toes” (Elbert, 2023). As educators, we must work to advocate for resources that move beyond our individual values and skills by creating systems and processes to protect the values of equity and access where we as individuals, will inevitably fall short.

### DEI and University Student Conduct

In my experience adjudicating university student conduct, DEI initiatives have been a non-issue; not discussed, not prioritized, evaluated only on an as-needed basis; I attribute this to limited capacity. Also in my experience, the conduct office or role remains a reactive program rather than a proactive, participatory office. One meaningful gesture to bridge this gap is the integration of the conduct office into new student orientation; parallel, separate sessions for incoming students and their parents. A sentiment shared by several of my study participants (see

chapter four for findings), conduct administrators often have resources (financial, staff, time) to *do the work* but often not enough to *go beyond* the work. In my professional experience, there is a single conduct administrator responsible for all incoming conduct incidents. This person is positioned beneath a supervising administrator or Dean of Students. There is always an appellate resource in a vice-president or provost; however, the four institutions I have worked for have been limited in staffing resources. From my time adjudicating university misconduct, administrative resolution has been the primary adjudicatory pathway for alleged students; a sort of strong arm of the institution that positions students between their culpability and the preponderance of evidence standard. One participant described this convenient option as the “drive through method,” students come in, the case is processed, the student moves on.

The integration of innovative resolution pathways for university conduct adjudication remains “uneven;” disrupting procedure, adding and training additional staff, and software integration are expensive and fail when they “lack [necessary] funds and administrative support” (Schrage & Giacomini, 2020, p.203). DEI in university conduct adjudication will remain a secondary, tertiary, or perhaps untouched priority, until institutional leaders advocate for and prioritize resources necessary to address these issues. As a practitioner, I predict a time when university discipline programs may be required by the Department of Education (ED) or other external entity to collect and publish discipline data, particularly as the initiative of free postsecondary education in the United States advances and the contractual relationship between student and institution subsequently shifts. It’s time to ask hard questions of ourselves and our leadership; do we value equity and access to public education enough to move beyond the DEI talk, and walk the DEI walk? To examine our own privilege and the shortcomings of our current

processes and procedures? More importantly, do we demand leadership proactively invest financial resources to defend these priorities as passionately as they do projects that yield a higher return on investment?

### The Science of Implicit Bias

To investigate implicit bias and the adjudicatory experience, it is helpful to first explore the organ which allows us to feel, communicate, and make meaning from our experiences. The following rudimentary explanation of the complex biological and cognitive processes of the brain provides only a high-level overview to support how implicit biases form and what function(s) they serve. This context is foundational for the study presented in this paper because the purpose of the study is to examine conduct administrator's insights into their own biases, how these might influence their work in conduct adjudication, and how they experience professional discretion during administrative resolution. This paper does not examine or measure implicit associations of university conduct administrators as is done with an Implicit Association Test, or IAT, (Project Implicit, 2011; Greenwald, McGhee, Schwartz, 1998; Greenwald, Nosek, & Banaji, 2003). It also does not attempt to quantify if, and if so, what impact university conduct administrator's biases objectively have on the cases they manage. We benefit from exploring conduct administrators' experiences with administrative resolution because it generates reflexivity among participants and the audience and calls upon them to consider elements of their decision-making processes which they may currently be unaware of.

Phenomenological inquiry is not typically grounded within theory as is the case with other methodologies, see chapter three for further rationale; however, theory is included in the following section to support the premise that implicit biases are innate to the human experience,

they occur beyond our consciousness and cognitive control, and therefore must also be experienced by university conduct administrators. To do this, I reference Dr. Daniel Kahneman's "two-system" analogy of human cognition (2011), Korteling, Brouwer, and Toet's Neural Network Framework (2018), Dr. Bruce Perry's Neurosequential Model (2006, n.d.) and Social Identity Theory (Tajfel & Turner, 1986; Molenberghs & Morrison, 2014). Should the study be replicated or redesigned for an alternate methodology, Harro's Cycle of Socialization, Kohlberg's Moral Development Theory, Multiple Dimensions of Identity, and Intersectionality as Critical Social Theory could appropriately be considered (Adams & Bell, 2016).

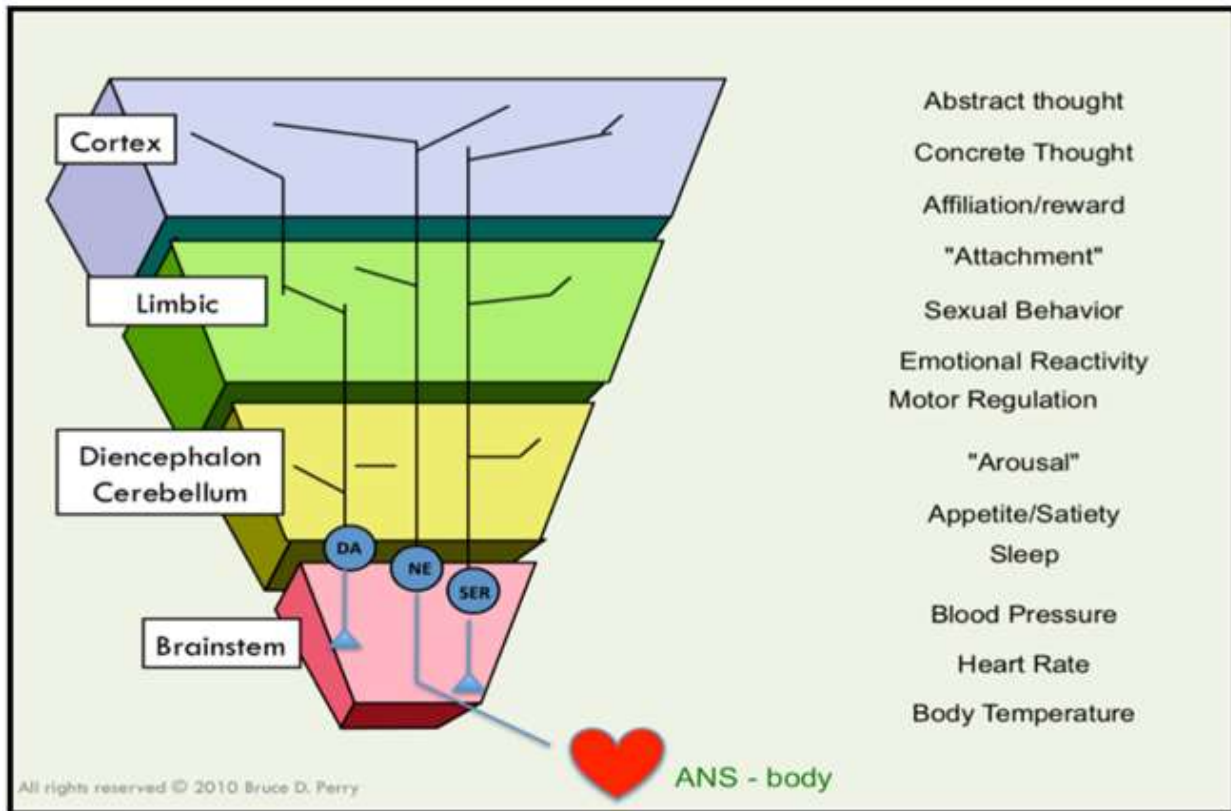
#### Bias and the Brain: Biology, Efficiency, and Evolution

The human brain processes internal and external stimuli through a coordinated orchestra of specialized neurons, glia, synapses, chemistry, electrical impulses, nerves, and tissue; such highly sophisticated execution requires enormous energy consumption. Our brains are masterfully efficient at reducing their energy consumption through shortcuts and networks which quickly move and compute information. There are biological shortcuts, called neuropathways, and cognitive shortcuts, or heuristics. The reader should note there is no single framework within the scientific community that fully explains the nature of implicit biases in the brain; likely there is no one mechanism within the brain or psyche that is entirely responsible (Korteling, Brouwer, & Toet, 2018). Neuropathways are evolutionary, biological adaptations that occur within the structure of the brain and function to instantly and unconsciously process and transmit information. The Neural Network Framework for Cognitive Bias incorporates the function and structure of neural networks with traditionally accepted theories for implicit bias within cognitive psychology (Korteling, Brouwer, & Toet, 2018).

A heuristic, a judgement or intuition, is a cognitive shortcut unconsciously generated and referenced by the brain to assist with cognitive overload when processing new, unfamiliar, or stressful information (Tversky & Kahneman, 1974; Evans, 1984). Cognitive psychologists generally accept Dr. Daniel Kahneman's systems analogy, grounded in Dr. Keith Stanovich and Dr. Richard West's earlier discoveries (Korteling, Brouwer, & Toet, 2018; Stanovich & West, 1998) which suggest there are two co-existing "brain systems" for cognition; system one operates quickly and at an unconscious level. System two operates slowly, is more effortful, and handles complex mental cognition and decision making (Kahneman, 2011). However, the cognitive capacity required of system 2 (i.e., for complex mental processing) can become delayed or unavailable at times. In these instances, the brain calls upon system one based heuristics to assist (Kahneman, 2011; Evans, 1984). Like neuropathways, heuristics exist for efficiency and survival; to circumvent cognitive overload. These efficiency shortcuts occur continuously in daily life, regardless of stress or context. A conduct administrator may for example, without conscious consideration, associate a student who arrives for their conduct meeting wearing a suit and tie as prepared or reasonable. A student who arrives wearing pajama pants or a ball-cap may be perceived as lazy or unaffected. These perceptions and associations may indirectly influence the administrators' assumptions of student's sense of accountability or culpability. These adaptations have apparent implications for the survival of our species; however, our brains cannot independently identify which associations are helpful and appropriate in the contemporary and dynamic environments we now live in. Dr. Bruce Perry's Neurosequential Model (see Figure 2) offers further language to understand sequential

information processing in the brain; to complicate an already complex phenomenon, executive functioning becomes greatly reduced when someone experiences chronic stress or trauma.

Figure 2. Neurosequential Model. Efferent Distribution of Primary Regulatory Networks, Dr. Bruce Perry's.



The inverted triangle above represents Efferent Distribution of Primary Regulatory Networks (Perry, 2006-2020). In most situations, cognition and automatic response remain balanced; the lower brain (brainstem, cerebellum) controls physiological function (heartbeat, digestion, breathing, etc.) while executive functioning in the higher brain, or cortex, (decision making, self-control, emotional regulation) proceeds without interruption (Perry, 2010). The brain is brilliant, but it does not consciously distinguish between actual, perceived, or prior threatening stimuli. Consider the fight-flight-freeze response; when a person's nervous system

becomes activated, the amygdala furiously signals a biological chain of events, including the release of cortisol and adrenaline into the bloodstream. These hormones subsequently increase the heart rate, dilate the pupils, and otherwise prepare us to appropriately respond to the activating stimuli. Most people experience nervous butterflies when preparing to give a speech in public; this is the result of your brain unconsciously communicating to your body to prepare for this stressful activity. When the nervous system becomes dysregulated or “stuck” in an elevated state of arousal, a person’s “window of tolerance” or ability to act and behave in a predictable way diminishes (Perry, n.d.). A dysregulated nervous system experiencing compounding fatigue, stress, or processing incomplete information (which is often the case with high-level administrators), will struggle to maintain complex cognition, rendering the higher order thinking brain impaired.

I am not suggesting that university administrators experience such constant stress and/or trauma which requires them to continually operate outside of their individual windows of tolerance. I am suggesting the high stress environment conduct administrators work within likely relates to documented instances of harmful bias incidents among other high stress occupations in the literature (healthcare and law enforcement). Like many student affairs positions, conduct administrators are classified as salary and/or administrative; we are expected to work until the work is done (White, Munin, Kelly, B.T, and Kelly, R.D., 2019). A 2018 study found student affairs professionals’ experiences with burnout predicted their career turnover rate (Mullen, Malone, Denney, & Dietz). Working long hours, vicarious trauma, and mounting job responsibilities due to institutional financial down-sizing result in exhaustion, dissatisfaction, and

low work-life balance for those working in the field (Marshall, Gardner, Hughes, & Lowery, 2016).

The Ohio State's Kirwan Institute for the Study of Race and Ethnicity (Kirwan Institute) is among the leading research institutes dedicated to examining educational equity and disparities ("Kirwan research, n.d."). Their 2016 publication, *The State of the Science: Implicit Bias Review 2016* reported significant gains in debiasing research and public attention for the science of implicit bias. Most salient to the topic of this study are the advances in bias research within healthcare, law enforcement, and cognitive neuroscience (Weisse, Sorum, Sanders, & Syat, 2001; Sabin & Greenwald, 2012; Cooper Roter, Carson, Beach, Sabin, Greenwald, & Inui, 2012; Abdollah, 2015; Fridell, 2017; Chiao, Iidaka, Gordon, Nogawa, Bar, Aminoff, Sodato, & Ambady, 2008). A separate 2019 study on bias in conduct adjudication sought to measure differences in decision making of University Conduct Administrators using a series of vignettes to explore possible racial disparities in case outcomes. The participants were asked to adjudicate hypothetical cases in which case details were altered; in some cases, alleged students were given a "Black-sounding name" in others a "White sounding name." The study found students with "Black sounding names" were 7% more likely to have a parent notified of their behavior if the Conduct Administrator was White and 18% more likely to be referred for a drug or alcohol assessment if their Conduct Administrator was Black (Starcke & Porter, 2019).

The study concluded overall the student's perceived racial identity did not influence the Conduct Administrator's decisions; however, the violation of a drug policy differs greatly from a subjective offense which professional discretion may result in more outcome variance. The researchers extrapolate the lack of disparate sanctioning in their study could be related to training

and education participants received in their graduate studies (naming explicitly student development theory) or a personal awareness of litigious impact and desire to “produce demonstrably impartial conduct decisions.” The researchers admit these assertions are speculative and offer areas for future research should include further qualitative inquiry to explore *why* Conduct Administrators made the sanctioning decision they did (Starcke & Porter, 2019). My study attempts to address this question by exploring the perceptions and experiences of conduct administrators during administrative resolution.

### Neuroeducation as an Emerging Discipline

The human brain remains as mysterious as it is miraculous to researchers. Neuroscience is an emerging interdisciplinary field investigating the development and structure of the brain and nervous system and their impact on behavior and cognition (Georgetown University Department of Neuroscience, n.d.). Neuroimaging was only recognized by the Academy of Neurology and the American Neurological Association as an integral skill required for neural clinicians as recently as 1975 (The American Society of Neuroimaging, n.d.); the National Science Foundation continues to invest billions of dollars into multidisciplinary teams advancing our limited understanding of the human mind. Another emerging field, Neuroeducation, is the application of these discoveries to pedagogy; the term appears as a discipline within the literature in the 1980s (Schenck, 2011). Educators continue to apply new advances in science to the classroom environment with brain-based teaching and learning. This context is helpful background for this study because it demonstrates how novice the scientific exploration of bias and the human brain is and how limited the application is to the exploration of bias within student affairs and university student conduct.

### Bias and Socialization: Social Identity Theory

Historically, educators and social scientists have located implicit bias within social theory and human development; Henri Tajfel's and John Turner's Social Identity Theory (1986) offers an additional explanation for the development and function of implicit associations and subsequent biases from a sociological perspective. Human beings unconsciously appraise information about the people we encounter in three phases: social categorization, social identification, and social comparison (Tajfel, 1981; Tajfel & Turner, 1986; Molenberghs & Morrison, 2014). Social Identity Theory offers that a person perceives others to be someone like them, part of their "in-group," or not like them, a part of the "out-group." Tajfel and Turner's research suggests that a positive self-image will result in positive in-group association and result in favorable treatment. Recognition as "out-group" or negative self-image will result in unfavorable treatment, comparatively. This phenomenon can be identified in Kenneth and Mamie Clark's famous "doll tests," published in 1947 and later referenced in the Supreme Court's opinion in *Brown v. Board of Education of Topeka* (1954) which ultimately contributed to the termination of segregation in American public schools.

The researchers demonstrated children's preference for white baby dolls over brown baby dolls. When asked to choose which doll was "good" and which they preferred to play with, white children selected white dolls (Clark & Clark, 1947). When black children were asked, they too preferred the "good" white doll over the brown doll, indicating problematic internal acceptance of harmful hegemonic norms which negatively impacted their perceptions of self (Clark & Clark, 1947). A UCA's socialization may prompt them to unconsciously identify with an element of a case or characteristic of a student, spurring an in-group out-group response which may influence how they treat a student, their investigation, or the outcome of a case. Contemporary researchers

have merged neuroscience and social theory by examining the associations and activity of the brain using fMRI while administering the IAT (Kirwan, 2015; Mitchell, Ames, Jenkins, Banaji, 2009; Healy, Boran, Smeaton, 2015). Other studies have sought to map more clearly how the brain processes the perceived emotions of others (Kirwan, 2015; Hehman, Volpert, Simmons, 2014; Hrybouski, Aghamohammadi-Sereshki, Madan, Shafer, Baron, Seres, Malykhin, 2016). Both are particularly interesting to consider for those in adjudicatory roles such as university conduct administrators.

### Gaps in the Literature

There seems to me, incompatibility between the practical daily operation of a university conduct office and the ambition to upgrade our programs to more appropriately reflect DEI initiatives that move beyond competencies for individual staff. Objective data necessary to drive institutional changes to address these shortcomings also remain limited; gaps in the literature currently exist around implicit bias and disparate adjudication of university student misconduct (S. Janosik, personal communication, February 23, 2020; J. Meyer Schrage, personal communication, March 23, 2022; Kaminski, 2018). Dr. Steven Janosik, a long-time practitioner and researcher in the field of university conduct, suggests the general gap in university conduct research may be explained by the “administrative nature” of the workload conduct administrators do. University administrators are busy professionals and are provided little or no time (paid or unpaid) in their professional roles to contribute to the greater body of student conduct research (S. Janosik, personal communication, February 23, 2020).

Several doctoral dissertations exist exploring implicit bias in university conduct adjudication (Dowd, 2012; Glick, 2016; Kaminski, 2018; Moffett, 2020; Neumeister, 2019;

McNair, 2013), suggesting to me, professionals seeking terminal degrees in student affairs recognize this problem of practice and see limitations of the literature but may be limited in their professional careers post-dissertation to pursue further research. To my knowledge, there have been no studies conducted which examine the associative measures of conduct administrators using the IAT or similar tool. No studies have been conducted exploring conduct administrator's experiences with administrative resolution for misconduct. Neither the ED nor existing postsecondary associations have conducted cross-institutional evaluations of discipline data for the purpose of identifying disparate cases of university student conduct adjudication (J. Meyer Schrage, personal communication, March 23, 2022) despite the existence of several empirical studies evaluating similar K-12 discipline data. This study attempts to fill the gap in literature by seeking to understand administrative resolution from the perspective of practicing conduct administrators and illuminating implications for practice and future research.

### History of University Discipline

Early postsecondary education in the United States was reserved for affluent, white males (Thelin, 2011, p.17); colonial universities were heavily influenced by Christian teachings and religious morality remained the core of behavioral expectations (Lancaster & Waryold, 2008, p.9; Thelin, 2011, p.22). Public confession, flogging, humiliation, and expulsion were acceptable punishments for undesirable or blasphemous conduct (Thelin, 2011; Kibler, Lancaster, and Waryold, 2020). During the Colonial era, the function of university discipline remained strictly punitive. The pendulum of institutional responsibility to act *in loco parentis* or “in place of the parent,” has ebbed overtime, mirroring societal approval or disapproval of institutional intrusion (Bickel & Lake, 1999; Lake, 2013 p.17; Kibler, Lancaster, and Waryold, 2020). This remains a

contemporary debate, evident in the political back-and-forth with public policy presented later in this chapter. The early relationship between student and school was one of obedience and submission; a top-down power dynamic from institution to student.

A significant shift in access to postsecondary education occurs in the 20<sup>th</sup> century; the emergence of women's colleges, Historically Black Colleges and Universities (HBCUs) and the passing of the Morrill act reshaped the student population. The need for additional student services is reflected in the 1937 American Council for Education's (ACE) report *Student Personnel Point of View*. Colleges and universities begin to value their role in creating well-rounded students who are civically engaged (American Council on Educational Studies, 1937). Post WWII enrollment surged with the passing of the 1944 Servicemen's Readjustment Act, or GI Bill, (Thelin, 2014) which prompted the need for significant resources to support the huge influx of veterans (Kibler, Lancaster, and Waryold, 2020). Enter the Civil Rights era; university students across the country had been primed by social and political movements toward justice, challenging the existing authority of colleges and universities by disrupting the traditional balance of institutional power and leveraging their position and value as students.

In 1961, the landmark due process case *Dixon v. Alabama State Board of Education* saw nine students unjustly expelled from the Alabama State College by the state board of education after a week of lunch-room sit-ins protesting segregation and racism in the south. The expelled students were only a handful of hundreds who had participated in similar movements in several other southern states called to action by Reverend Dr. Martin Luther King Jr. The expelled Alabama students hired civil rights attorneys, Fred Gray (Alabama Alum) and Derrick A. Bell Jr. with the National Association for the Advancement of Colored People (NAACP). The defense

questioned not the violation of the student code of conduct, rather, presented an egregious violation of the student's rights to due process which had previously not been addressed by state or federal courts. The outcome of litigation resulted in the constitutional protections afforded to alleged university students today.

Subsequent cases *Esteban v. Central Missouri State College* (1967) and *Goss v. Lopez* (1975) further informed procedural elements, including notice of charges in writing and the recommendation for number of days required between notice and hearing. *Mathews v. Eldridge* (1976) resulted in a 3-part test to inform other procedural due process and sanctions in the courts weighing consequences, risk of error, and burden to the institution:

- 1) Loss: The loss or injury suffered because of the private agencies' decision
- 2) Probability: Risk of error vs. value of procedural safeguards
- 3) Burden: What will be the cost to the government, or the administrative process

The canonical Mathews Test was applied by the Seventh Circuit U.S. Court of Appeals in *Osteen v. Henley* (1993) after the plaintiff, Thomas Osteen, sought reparations from the university and administrators adjudicating his case for allegedly violating his due process rights. Osteen had been expelled for two years from Northern Illinois University after violently breaking the noses of two other students during a physical altercation off-campus. The court ultimately barred Osteen's case for several reasons; the greater influence of the case being the court's opinion on the undue cost to an institution to provide legal counsel to a student:

to encourage further bureaucratization by judicializing university disciplinary proceedings, mindful also that one dimension of academic freedom is the right of academic institutions to operate free of heavy-handed governmental, including judicial, interference (*Osteen v. Henley*, 1993)

The adoption of the Civil Rights Act (1964) and subsequent 1972 amendments to the Higher Education Act (U.S. Department of Education Office for Civil Rights "FAQ," 2022.) exemplified the United States' position on equality and access to public education through the enforcement of strict federal compliance laws. In 1968 the OCR under the ED began to collect indicators of compliance with civil rights laws from public, Local Educational Agencies (LEAs) grades kindergarten through twelfth grade (K-12). The Civil Rights Data Collection survey (CRDC) is also used to collect civil rights data from juvenile justice facilities, alternative schools, charter schools, and specialized schools who serve students with disabilities; postsecondary institutions, Tribal schools, and schools under the Department of Defense Education Activity were excluded (U.S. Department of Education Office for Civil Rights "FAQ," 2022). The OCR continues to collect critical K-12 institutional data using the CRDC, requiring public K-12 schools to report disciplinary data, programming information, enrollment statistics and services available disaggregated by disability status, race, ethnicity, sex, and English as a second language (U.S. Department of Education Office for Civil Rights "FAQ," 2022). The CRDC School Reporting Form also provides a list of key definitions for K-12 administrators which include criteria for in-school and out-of-school suspensions and expulsions (CRDC 2020-2021). The reports produced by the OCR using CRDC data are available to the public and provide an important snapshot to educators, policy makers, parents, and community members of the status of key education and civil rights issues in American public schools ("CRDC FAQ," n.d.). Currently, there is no aggregate database to deposit or view postsecondary discipline data and no requirement from the ED for postsecondary institutions to collect or share this data with the public.

In 2014, the OCR published a critical analysis of K-12 disciplinary data collected through the CRDC highlighting disturbing disparities in disciplinary referrals of young African American and Hispanic males as well as students with disabilities (U.S. Department of Education "Civil Rights Snapshot," 2014; Carter, Skiba, Arrendondo, & Pollock, 2014; School Climate and Discipline, 2012). In 2014 the United States Department of Education also released the *Resource Guide for Improving School Climate and Discipline* which included expectations and strategies for educators and administrators to mitigate the disproportionate representation of students of color and students with disabilities in their discipline programs. The resource guide referenced specifically how the negative implicit biases of staff can perpetuate inequitable and unfair practices which take away from the disciplinary goals of the institution. The OCR endorsed proactive, data-driven evaluations for K-12 programs, asserting schools “should regularly collect complete information” to supplement data collected for the CRDC, further recommending the collection of demographic information to “prevent, identify, reduce, and eliminate discriminatory discipline and unintended consequences” (U.S. Department of Education "Guiding Principles," 2014).

Unfortunately, this report and guidance package were also rescinded under the Trump Administration. American colleges and universities do not share the same rigorous standards for maintaining and reporting student disciplinary data as public elementary and secondary schools and no formal guidance exists from the ED for university conduct administrators to apply to postsecondary conduct programs that address bias and/or mitigating strategies.

The Kirwan Institute, mentioned previously in this chapter, also published a special report (2014) on the impact of implicit biases of K-12 educators and administrators, referencing

independent studies from Texas (Fabelo, Thompson, Plotkin, Carmichael, Marchbanks, & Booth, 2011), Philadelphia (Smith & Harper, 2011) and California (Staats, 2015; Losen & Skiba, 2010; Fabelo et al., 2011) name professional discretion of school administrators and employees as a significant factor in the disproportionate representation minority students in K-12 discipline referrals for subjective offenses. While the primary focus of these studies was disparate referral rates and out of school suspensions, they demonstrate credible and substantive data which could only be achieved through use of CRDC data.

#### Comparing Apples to Oranges: CRDC vs. Clery

It is challenging to translate problematic discipline practices in K-12 directly to public postsecondary education because the function of the institutions, legal implications, behavioral expectations, consequences, and student populations are different. To some, comparing the two is akin to comparing apples to oranges. Postsecondary institutions leverage a contractual partnership between student and institution; a code of student conduct typically serves to outline policy expectations and community guidelines for students (consumers) paying for an education (commodity) (Schrage & Giacomini, 2020). The substantive due process elements and legal precedents established through the ED are not presented to university administrators in an easily identifiable reference location; the ED relies heavily on associations like the Association for Student Conduct Administrators (ASCA) to monitor, interpret, and distribute case law to university administrators who will then translate this into appropriate policy and procedure.

Colleges and universities do not participate in the biennial CRDC; however, they are required to adhere to the requirements of the “Clery Act,” formally named the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (1990). Emerging from

a campus tragedy, the Clery Act requires colleges and universities to annually collect and report statistics of alleged crimes and disciplinary referrals for a specified list of crimes. This data is reported both the OCR under the ED and published in the institution's required Annual Security Report (ASR). The spirit of the Clery Act is to inform the public of crimes committed on campus for the purpose of safety, not to provide transparency and accountability for equitable and consistent adjudication of alleged university misconduct; it does not provide disaggregated demographic information of victims or alleged perpetrators (Clery Handbook, 2016). The Clery Act was subsequently updated to include other reporting requirements for hate crimes and sexual violence under the Violence Against Women's Act and subsequent reauthorizations (2013, 2022). The long-standing 2016 edition of the Clery Handbook (265 pages) was rescinded in 2021 under Secretary of Education Betsy DeVos. In its place the Office of Postsecondary Education issued a 13-page replacement titled "Clery Act Appendix for FSA Handbook" (Office of Postsecondary Education, 2016; FSA Clery, 2020).

### Politicization of Equity in Education

Over the last two decades, a series of conflicting Dear Colleague letters (Ali, 2011; Jackson, 2017; United States Department of Education, Dear Colleague Letter, 2015), federal guidance, reversal, and reissuance, and Executive Orders debate how far the federal government's reach should be in matters of public education. Most germane to the topic of this study are Title IX of the Educational Amendments Act (1974), diversity, equity, and inclusion initiatives, and discipline in public K-12 schools. The politicization of equity issues in education have had administrators experiencing tremendous whiplash during the three previous white house administrations resulting in great frustration and rushed policy and procedural updates

necessary to meet federally mandated training and investigation requirements. In 2018, the Trump administration rescinded the 2014 ED K-12 guidance package, a formative document for this study. In May 2021 the Attorney Generals of 22 states and the District of Columbia signed a joint letter to Miguel A. Cardona, Secretary of Education, and Merrick B. Garland, U.S. Attorney General under the Biden administration, insisting the 2014 guidance package be reissued and expanded to include LGBTQ+ issues and intersecting identities. In their joint letter, the authoring Attorney General's reference the Trump administration's 2018 Dear Colleague Letter, arguing "the extent to which the long-lasting effects of this decision [to rescind the 2014 guidance package] will be felt [and] are still not fully understood" (U.S. Department of Education "Joint Dear Colleague," 2014).

#### Filling the Gap: Professional Associations

Institutional or individual affiliation with the Association for Student Conduct Administrators (ASCA) or any other professional association for university conduct adjudication is not a requirement of postsecondary institutions receiving Title IV funding. Associations often require financial membership to access resource libraries and community mailing lists which offer support and professional best practices. Affiliation with this type of professional association is not formally endorsed by the OCR and is not required to maintain federal compliance for Title IX or Clery under the U.S. Department of Education. The ASCA's guiding document (1993), *Ethical Principles and Practices in Student Conduct Administration*, is the "cornerstone" of ethical standards for the adjudication of university misconduct. The ASCA has been selected as the guiding association for this study in part because of the researcher's proximity to the association. In addition to my personal familiarity with the ASCA, it is

nationally recognized by many as the leading association for Student Conduct practitioners, including the Student Affairs Administrators in Higher Education, otherwise known as NASPA, College Student International (ACPA), the Association of College and University Housing Officers International (ACUHO-I), the National Association of Clery Compliance Officers (NACCOP), and the Higher Education Case Managers Association (HECMA) among others (ASCA, Community partnerships).

ASCA members are encouraged to “exercise reflective judgment,” or professional discretion, and to preserve the integrity and educational value gained through the enforcement of institutional community standards (ASCA, 1993). During the drafting phase of this chapter (2021), the ASCA published, *Knowledge and Skills*, a matrix to further guide and develop professional competencies in the field of university conduct administration (Parle, Acosta, Anaya, Bryant, Harris, & Malyk, 2021). These guiding documents are available through the ASCA assist universities by providing a framework for successful and equitable discipline programs, however, not all conduct administrators are trained, affiliated, or even aware of ASCA. In 2020, the ASCA reported 1,051 institutional memberships (ASCA, 2021, state of the association) which represents less than one quarter of the public universities receiving Title IV funding who are obligated to adhere to federal civil rights laws. The ASCA articulates that membership with the association obligates adherence to the principles and standards provided (ASCA, 1993), however many public universities in the United States are not affiliated with the ASCA and therefore are not obligated to adhere to the ethical standards or best practices promoted within the organization. This contributes to the current variance among college and university conduct codes, adjudication practices, and sanctioning models.

The ASCA *Knowledge & Skills Matrix* (2021) is a tremendous contribution to the literature for university conduct administrators. Eight knowledge areas, administration, assessment, education, equity and intentional inclusion, internal and external partnerships, investigation, law and policy, and resolution management are presented with three levels of mastery: foundational, intermediate, and advanced. The competencies for diversity and intentional inclusion advance beyond awareness and knowledge to include application and commitment; they define equity and intentional inclusion to be:

The practice of promoting access and fair opportunities through the acknowledgement of privilege, awareness of power imbalance, and dismantlement of colonization and systemic oppression. It encompasses the work to address equity and intentional inclusion as an individual, as part of an organization, and the structural oppressive practices that exist.

The area of diversity and intentional inclusion incorporates three priority areas, individual awareness and action, action, and structural impact. The expectation of diversity and intentional inclusion within assessment for intermediate specifies the collection and analysis of disaggregated conduct data; an advanced practitioner should “incorporate disaggregated conduct data into strategic planning, staff performance, organizational training, and student prevention education/ orientation. Assesses students’ experience with office and staff.” Advanced practitioners should further incorporate diversity and intentional inclusion within resolution pathways by:

Review[ing] resolution pathway data through various data points (i.e. race, gender, age, student status) and identifies patterns of behavior to improve equity and inclusion practices in resolution pathway assignment and facilitation. Identifies and changes unjust or unethical policies that may be rooted in oppression or bias (Parle, Acosta, Anaya, Bryant, Harris, & Malyk, 2021).

No external credentialing board or program exists for postsecondary institutions to articulate how they meet these standards; the responsibility and interest remains upon the institution and conduct administrators to understand, fund, and apply these to their respective institutions.

### Chapter Summary

Over the last decade, the profession of postsecondary student conduct adjudication has seen an integration of elevated diversity, equity, and inclusion initiatives to university student conduct. As a practitioner, I am encouraged by the palpable energy I feel and see in emerging literature advocating for greater commitment to systemic equity within student affairs. For many individual administrators, resource barriers seem to limit their ability to fully address the competencies listed in the 2021 *Knowledge and Skills* matrix (ASCA); further research is needed to fully grasp the current state of integration of the Spectrum of Resolutions Options (Schrage & Thompson, 2008) across institutions. At the time this dissertation is published, educators and administrators remain again, in limbo, pending federal guidelines for the adjudication of Title IX cases, as is the 2014 guidance package for K-12 regarding disparities in administration of school discipline. Although these do not directly influence other academic and non-academic issues within university student conduct, they are relevant current issues to be engaged with. Implicit bias is a pervasive part of human experience; the disparate impact of implicit biases of university conduct administrators remains unexamined across postsecondary institutions. This study is uniquely positioned to expand discussion of equity and access to public education in the United States by providing original research on the experiences of conduct administrators who engage with administrative resolution within university conduct adjudication.

Brain Break

1. Building upon your previous reflections from Brain Break number one, consider the content of this chapter. What questions do you now have regarding unconscious associations, hermeneutics, implicit biases, and/or neuropathways? What new insights have come to you? You may also wish to apply these insights by reflecting on a time you experienced a stressful situation at home or work.
2. What are your thoughts regarding differences between civil rights reporting requirements for K-12 institutions and postsecondary institutions? Consider what implications this may have that are not addressed by this chapter. What are the benefits to these differences? What are the disadvantages?
3. If you are a university conduct administrator, consider new insights or discoveries you have made as a result of reading this chapter. Consider your own formal education, professional preparation, and continued development in your role as an adjudicator. How did you come to develop your knowledge and skills as a conduct administrator?

## CHAPTER THREE

## METHODOLOGY

Gaps in the literature identified in chapter two include cross-institutional quantitative analysis of university conduct data for disparities. This study serves to fill the current gap in university conduct literature by examining university conduct administrators' experiences with adjudication of student misconduct through administrative resolution. The following chapter describes the methodology selected for this study, including interpretive phenomenology, philosophical assumptions, ethical considerations, research design and rationale, population, sample, participant descriptions, data collection, analysis, validity, and trustworthiness.

Research Questions

The following research questions guide this study:

- 1) How do University Conduct Administrators (UCAs) experience administrative resolution?
  - a. How might the personal experiences of UCAs influence administrative resolution?
  - b. How might the professional experiences of UCAs influence administrative resolution?
- 2) How do UCAs navigate professional discretion and case context during administrative resolution?
- 3) What insight do UCAs have regarding their own implicit biases?

### Research Design and Rationale

This study was conducted by a single researcher attending Montana State University and is the basis for a required dissertation as partial fulfillment of the requirements for a Doctor of Philosophy degree in Adult and Higher Education. In addition to the required application and approval by the researcher's Institutional Review Board (IRB), a research prospectus and application were submitted to the Association for Student Conduct Administration (ASCA) Research Board requesting permission to study the association's members (see Appendix B). The sensitive nature of the topic and proximity of the researcher to participants informed methodological considerations for this study. Because the participants in this study belong to the same professional peer group as the researcher, considerable time was given to selecting a method that would both 1) foster reciprocity among the researcher and participants and 2) support the sensitivity required for exploring implicit bias in professional experiences. Qualitative research methods present opportunities for authentic relationships and rapport between the researcher and participant(s) (Creswell & Poth, 2018; Peoples, 2021) while also yielding rich data samples necessary to capture the nuances of implicit bias.

Qualitative methods are well suited to examining implicit bias because they provide appropriate strategies to counter participant response bias and cognitive dissonance, common limitations of implicit bias research. Response bias is a phenomenon where participants present socially acceptable or preferred responses (Krumpal, 2013; Creswell & Poth, 2018; Pauls & Stemmler, 2003). Participants may alter their responses for fear of social rejection, embarrassment, or adverse consequences which can influence data. Methods that create

opportunities for participants to examine and share context around personal experiences may relieve these fears (Peoples, 2021; Polkinghorne, 1989).

### Phenomenology

A German theologian, Martin Heidegger was the understudy of the transcendental phenomenologist Edmond Husserl. Husserl and Heidegger held opposing perspectives on techniques for analysis; Husserl asserted biases of the researcher must be carefully bracketed, or removed, from the investigation so as not to contaminate the true “essence” of the data. Heidegger's interpretive philosophy presented an alternative humanist perspective, arguing no such analysis could exist. Heidegger believed a researcher's positionality could not be removed from their analysis and countered it was a vital element to include in the interpretation of the data. Interpretive phenomenology was selected as the appropriate qualitative method for this study because it accepts and capitalizes on the researcher's position as an in-group member with a well-developed “pre-understanding” of the phenomenon (Peoples, 2021; Dibley et al., 2020; Gadamer, 2008; Vladutescu, 2018; Polkinghorne, 1989; Van Kaam, Van Croonenberg, & Muto, 1969).

### Interpretive Phenomenology

Hermeneutic, or interpretive phenomenology as a philosophy was presented by Martin Heidegger in his 1927 publication, *Being and Time*. It is the preferred method for qualitative researchers seeking to explore, interpret, and make meaning from participants' experiences while rejecting the ontological perspective that consciousness and experience can exist separately (Dibley et al., 2020). To Heidegger, reality is subjective, suspended in time and space within human experience and consciousness as one phenomenon. Only by negotiating our individual

truths and experiences with others may we arrive at some collective semblance of the nature of reality. In the context of this study, individual conduct administrators are uniquely positioned to adjudicate student misconduct in relationship to their institution, their students, and their own experiences. The researcher's positionality and pre-understanding of this phenomenon are joined with the experiences of participants in a hermeneutic circle (Dibley et al., 2020) in pursuit of "a fusion of horizons" (Gadamer, 2008). Interpretive phenomenological methods are particularly interesting for research in implicit bias because it introduces metaphysical philosophy to the emerging, multidisciplinary investigation.

### Philosophical Assumptions

This paper maintains social constructionist and critical paradigms, offering ontological, epistemological, and axiological assumptions complementary to my positionality as a researcher and the interpretive phenomenological methods used in this study. The relativist ontological perspective of this study recognizes human experience as subjective and qualifies the nature of reality as such (Levers, 2013). Parallel to Heidegger's interpretive philosophy, relativist ontology describes reality as indistinguishable from human experience; reality is how a person experiences it, honoring multiple realities and multiple truths (Denzin & Lincoln, 2005). Subjectivism, the epistemological assumption this paper holds, anchors the nature of reality as beholden to the knower's experiential lens; knowledge and truth cannot exist without human observation and experience and no universal "way of knowing" can exist (Denzin & Lincoln, 2005). How we know what we know depends on the lens an individual maintains. The axiological assumptions in this paper are values laden; the researcher's world views, experiences, and perspectives are valuable tools to be included in the research process (Creswell & Poth, 2018). The values held by

the researcher are relevant to the interpretation of study findings. Refer to chapter one for the researcher positionality statement.

### Ethical Considerations

All participants in this study are consenting adults who, prior to participation, read and signed a formal letter of informed consent accepting with full transparency the topic and methodology for the study (see Appendix F). Participants were informed they may terminate their participation in the study at any time without fear of negative recourse. Participants in the study received no compensation for their time or contributions. It is possible that participants in this study may have experienced mild emotional discomfort if participation resulted in cognitive dissonance; however, participants may have also experienced personal growth and/or professional improvement as a result of participating in this study (Vladutescu, 2018). Participants may gain a deeper understanding of their role as a conduct administrator by participating in the hermeneutic circle in pursuit of shared understanding with the researcher (Dibley et al., 2020). Additional implications for practice can be found in chapter five.

### Population and Sample

#### Population

The population for the study was limited to UCAs from public institutions of higher education in the United States receiving Title IV funding (Federal Application for Student Aid, or FAFSA) who are also current members of the ASCA. Limiting the population to include only UCAs from public institutions who participate in FAFSA justifies the assumption that all participants in the sample maintain the same legal standards for adjudicating alleged university

student misconduct under the U.S. Department of Education. The ASCA articulates that membership with the association obligates adherence to the principles and standards provided (ASCA, 1993); by limiting the population to include only members of the ASCA, it is assumed that the sample will consist of participants who are equally familiar with and responsible to the guidance and expectations of the association. The participant's experience with case type and current sanctioning authority did not limit their ability to participate so long as the nature of their professional experience consisted primarily of non-academic, behavioral misconduct adjudication. Participants' institutional Carnegie Classification for type, size, and setting were not considered reasons for exclusion from the study, however, participants with experience working at institutions with residence halls were preferred. See study limitations and delimitations for further details.

### Sampling Technique & Sample

As requested in the application to study the ASCA, a complete member roster was provided to the researcher by a member of the ASCA Research Board. The complete member roster included 2,204 memberships detailed in a digital Excel workbook. Through a process of elimination, all memberships which did not meet the criteria for the study were eliminated including business partnerships, campus colleagues, non-members, retirees, honorary members, organizational affiliate members, and student members (147). Institutions not located in the United States (30), ASCA staff (6), fraternity and sorority memberships (10), and private colleges, non-residential colleges, two-year, technical, and community colleges (1,055) were removed individually by the researcher. Memberships with no title (121) or whose title did not fit the target population (173) were also removed. The remaining 836 memberships were filtered by

title, resulting in 344 different job titles. Because there is little consistency among job titles, job duties, and campus offices responsible for adjudicating university conduct, the sample was further filtered by titles which presented a total of ten or more times. 16 job titles occurring ten or more times included Dean of Students (39), Student Conduct Coordinator (38), Assistant Director (36), Assistant Dean of Students (31), Director of Student Conduct (26), Assistant Director –Student Conduct (25), Director (23), Associate Director (22), Associate Dean of Students (19), Associate Director, Student Conduct (18), Director of Student Conduct and Community Standards (16), Coordinator (15), Conduct Officer (13), Case Manager (12), Assistant Director of Community Standards (11), and Director of Community Standards (10). The final list of potential participants included 352 memberships representing 297 different institutions. This list was randomized using Excel and grouped in numbers of 20 for participant recruitment.

### Sample

100 total recruitment emails were sent in groups of 20 over a period of two weeks; this yielded 33 responses or a response rate of 33%. Purposeful sampling by use of the ASCA member roster and randomization of the 352 potential participants ensured a diverse sample with the appropriate level of professional experience in university student conduct adjudication to contribute to this study (Creswell & Poth, 2018). The standard acceptable sample size for a phenomenological study is 10-15 participants (Creswell & Poth, 2018; Peoples, 2021); data saturation was reached with 12 participant interviews; 11 participants were included in the final sample for this study. One participant was interviewed and eliminated from the sample as his

professional experience did not meet the study parameters. A table of participant characteristics and aggregate descriptions are located in chapter four.

### Data Collection and Analysis

This study uses classic data collection and analysis techniques recommended for interpretive phenomenology practiced by Martin Heidegger and Hans-Georg Gadamer (Dibley et al., 2020). Gadamer's procedures for interpretive phenomenology build upon Heidegger's key tenants (Dibley et. al, 2020); Gadamer's dialogical model (Gadamer, 2008) was selected for this study over gnoseological and translation because the "comprehension device" is verbal interview (Vladutescu, 2018). The six elements or steps in the Gadamerian procedure were executed in four phases titled: pre-research, data collection, data analysis, and post-research. Pre-research includes both philosophical and pragmatic preparation done by the researcher through self-reflection and expert consultations to establish a "pre-understanding" of the phenomenon. Data collection and analysis were conducted within the hermeneutic circle; a dynamic and non-linear process of negotiation between participants and researcher ultimately resulting in a cross-case synthesis presented in chapter four. Post-research protocols include sharing the findings with participants of the study, presentation of findings in a public dissertation defense, and subsequent presentation at the annual ASCA conference.

#### Pre-Research

Pre-research includes the first and second elements of Gadamer's procedures: identifying "something which addresses us" (Gadamer, 2008; Dibley et. al, 2020), or selecting the phenomenological experience to study and reaching a fundamental hermeneutic agreement. The

researcher established a pre-understanding of the topic through self-reflection; identifying personal beliefs and biases in a process of individual phenomenological reflection or IRP (Colaizzi, 1978; Dibley et.al., 2020). Gadamer and Heidegger assert that only from this position of pre-understanding can research questions be identified (Gadamer, 2008; Vladutescu, 2018). Exploring Gadamer's second element, reaching a fundamental hermeneutic agreement, the researcher presented her pre-understanding to three colleagues working in university conduct adjudication. These discussions further shaped the research questions and research protocols (Polkinghorne, 1989; Colaizzi, 1978). I then presented the topic and research questions to four experts in the areas of conduct adjudication, higher education, civil rights law, and alternative dispute resolution.

### Data Collection

Individual interviews were conducted over a period of four weeks. Virtual interviews were scheduled for one hour using Microsoft Teams. Participants were provided the opportunity to participate with or without their camera on; all participants ultimately decided to participate with their cameras on. Audio recordings of the interviews were collected using a microphone application separate from the Teams application as to ensure no physical image of the participants was collected. Interview audio was transcribed using the "transcribe" function within Word web; a relatively new tool only available in English and only through Microsoft Word web at the time this study was conducted. Participant descriptions were collected using Microsoft forms; participants were emailed a link to the form directly after their individual interview, see Appendix H.

Interviews were conducted with five sections which were ordered from least to most invasive; the complete interview protocol can be found in Appendix G. Section one involved the reading of a purpose statement, positionality statement, and clarification of terms by the researcher. The semi-structured interview format was explained to participants to encourage discussion. Section two of the interview questions explored the conduct administrator's experiences with informal resolution including explanation of their process from the time an incident report is received to the completion of sanctions, how their approach to informal resolution has evolved over the course of their career, the workflow of the actual administrative meeting with the student, and times they may have adjusted their approach or process for any reason.

Questions in section three prompted participants to reflect more deeply on the experience or informal resolution from their perspective with questions examining their case history, power and privilege in their position as a conduct administrator, use of professional discretion, emotions experienced while adjudicating cases informally, and cases or students which they advocated for or against a student. Section four included questions which prompted participants to reflect about the students whom they had met with informally to adjudicate their misconduct. These questions included describing students most and least likely to be referred for conduct, patterns of recidivism, student honesty and accountability, and how these may have impacted the process or outcome of a case. The final section of questions asked participants to examine whether they felt they had insight into their own biases, how this insight related to their work informally resolving student conduct, whether they or their institution collected and reviewed

conduct data for the explicit purpose of identifying disparate referrals, findings, or outcomes of student misconduct, and whether they felt the study was valuable.

Participant Descriptions. Participants were encouraged to share additional personal details they considered salient context to associate with their contributions. Names and institutions of employment have been altered to protect the anonymity of participants. Participants were empowered to choose an alias and encouraged to disclose as much or as little about themselves as they felt could be done while preserving their anonymity; participants who did not select an alias were provided with one by the researcher. Uniform questions asked of all participants were age, gender, highest level of education completed, whether they were currently enrolled in a graduate program, how many total years of professional experience they had in student conduct, and how many years they had served in their current role. I intentionally included an ambiguous, open-ended, and self-disclosing prompt to allow participants to communicate which additional characteristics they felt were salient to their identity. I was curious to know what characteristics participants would choose to include that fall outside the typical variables such as those listed as protected status under current civil rights laws.

#### Data Analysis

Data analysis was conducted in two phases, phase one involved transcribing participant interviews using the transcript function available in Microsoft word web. Individual audio files were uploaded into the web application and then transcribed by the software. The web application identifies “Speaker 1” and “Speaker 2” by detecting differences in voice tone; these were later replaced with the chosen alias of the participant and the name of the researcher. Transcripts were cleaned and corrected by the researcher in a manual process of listening to the

audio file and editing the transcript; this process took approximately two hours per hour of interview for a total of approximately 24 total working hours for the 11 transcripts included in the data set. During the process of cleaning and preparing transcripts, a memoing technique was used to collect points of interest, initial themes, and additional questions regarding the participant interview. Researcher memoing is a qualitative analysis technique which provides procedural structure and strategy to support the conceptualization of meaning within a phenomenon (Creswell & Poth, 2018). Using my own experience as a conduct administrator and pre-understanding of the phenomenon, I developed raw data into concepts which could later be re-examined with participants.

Phase One. My researcher memos were collected in an excel workbook; each participant was assigned an individual sheet in the workbook yielding 11 separate sheets within the excel file. Headings in each worksheet naturally evolved from discussion within participant interviews, presenting chronologically in the sheet from left to right as the next interview question was asked or topic arose. The semi-structured interview design resulted in variance among headings in the individual sheets of the workbook, however, headings which appeared in multiple sheets and were referenced in the researcher's pre-understanding were identified and used to generate the initial themes among participant experiences. Memoing, highlighting, and "dwelling with the data" (Dibley, et. Al, 2020) created space for me to think about the contributions of each participant with curiosity and to conceptualize insights and emerging questions to share in the second cycle of understanding. This process took approximately four weeks and resulted in the following initial themes:

Table 1. Phase One Analysis: Initial Themes.

Initial Theme	Process	Changes to Process	Participant Reflection
Sub-theme One	<ul style="list-style-type: none"> <li>• Incident occurs</li> <li>• CA reads IR</li> <li>• Determines violation</li> <li>• Assigns/takes case</li> <li>• Notice letter</li> <li>• Student meeting</li> <li>• Investigation</li> <li>• Finding</li> <li>• Sanctions</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in university conduct best practices</li> <li>• Student development</li> <li>• Judicialized</li> <li>• COVID-19</li> <li>• Use of technology</li> <li>• Student advisor</li> <li>• Scaffolding staffing</li> <li>• Improved relationships</li> <li>• Federal regulations</li> <li>• Policy changes</li> <li>• Updating code of conduct</li> <li>• Updating protocol</li> <li>• Advocating for resources</li> </ul>	<ul style="list-style-type: none"> <li>• Professional experience</li> <li>• Personal philosophy</li> <li>• Changes in personal philosophy</li> <li>• Mistakes</li> <li>• Regrets</li> <li>• Emotions</li> <li>• Pressure</li> <li>• Identifying with Student</li> <li>• Caring about Student</li> <li>• Experience</li> <li>• Case reflection</li> <li>• Student reflection</li> <li>• Hard decisions</li> <li>• Mentorship</li> <li>• Training</li> <li>• Maturation</li> </ul>
Sub-theme Two	<ul style="list-style-type: none"> <li>• Maxient software</li> <li>• Staffing</li> <li>• Department resources</li> <li>• Supervisor support</li> <li>• Institutional support</li> <li>• Rapport building</li> <li>• Punitive v. supportive</li> <li>• State laws</li> <li>• Federal laws</li> <li>• Consistency</li> <li>• Due process</li> </ul>		

Phase Two. Pursuing the hermeneutic circle, I provided all participants with access to their individual raw data files through a secure Microsoft OneDrive file. The share folder

included their individual interview audio, interview transcripts, and the initial themes I extracted from their contributions. I provided each participant with two weeks to review their individual raw data and initial codes for additional clarification or insight they would like to share. Member checking is a critical component of qualitative research and is a primary step in the hermeneutic pursuit of truth. While participants reviewed the phase one analysis, I continued with phase two; generating a deeper understanding of the initial themes by reading them for a second time and compiling final codes into a new excel workbook. The process of generating insight by moving between analysis of individual participant data and the synthesis of participant experiences is recommended protocol for the hermeneutic circle; the second phase refining themes took approximately four additional weeks. Phase two analysis resulted in a final, refined theme list which was used to generate findings, implications for research and practice, and final discussion.

### Themes and Research Questions

The following final themes were distilled during phase two analysis and are presented below under the study research questions.

#### **Research Question 1: How do University Conduct Administrators experience administrative resolution?**

- Institution Dependent
  - Model code, program development, resources
    - Department and Institutional leadership, values, and guiding principles

- Resource Dependent
  - Finances
  - Staffing
  - Software
- Conduct Administrator Specific (nested under research question 1a and 1b)
  - Personal experiences (nested under research question 1a)
    - Identities, values, skills, disposition
  - Professional experiences (nested under research question 1b)
    - Conduct as a career choice, years in field, case type and quantity
- Student Dependent
  - Student's available resources
    - Parental involvement
  - Student attitude, honesty, and accountability
    - Conduct Administrator's perception of student learning

**Research Question 1a: How might the personal experiences of University Conduct Administrators influence administrative resolution?**

- University Conduct Administrator's (UCA) personal background and/or upbringing
  - Identities, values, skills, disposition
    - Moral injury
- University Conduct Administrator's formative experiences in college and career
  - Mentorship and Countertransference

**Research Question 1b: How might the professional experiences of University****Conduct Administrators influence administrative resolution?**

- Professional Experience
  - Conduct career, years in field, case type and quantity
- Maturity in Role
  - Listen to understand
    - Higher burden of proof
    - Alternative sanctions and support resources
  - Trust the process
  - Balanced allegiance to institution and student

**Research Question 2: How do University Conduct Administrators navigate their professional discretion and situational context of a case during administrative resolution?**

- Collaborative supervisor and peer support
- Consideration of precedent, matrix/guide, discretion
- Drug and Alcohol mandatory minimums
- Fundamental Fairness
  - Impact on Student
  - Disturbed if decision was inappropriately overruled
  - Disturbed if sanction did not fit violation

**Research Question 3: What insight do University Conduct Administrators have regarding their own implicit biases?**

- Reflection and Intention
- Data Evaluation

Hermeneutic analysis is not confined to a single correct framework; patterns and themes generated from hermeneutic analysis do not share the exactness of positivist quantitative data. No single correct theme can be extracted and replicated because the method is rooted in the constructionist paradigm (Dibley et al., 2020). The naming of patterns and themes identified by the researcher is done so through the researcher's positionality pre-understanding. As such, the result of the study will also be received by different audiences in the scientific and academic communities differently (Dibley et al., 2020). Rigor is an important element of both quantitative and qualitative inquiry; rigor articulates the quality of research conducted is of high and exacting quality. Quantitative research will demonstrate rigor through validity, reliability, and generalizability. Qualitative, post-positivist research demonstrates rigor through trustworthiness, credibility, and dependability, confirmability, and transferability (Dibley et al., 2020).

Study Rigor

Trustworthiness

This study was conducted by an in-group member of the intended population and audience; a student affairs practitioner with professional experience as a university conduct administrator. Several steps were taken by the researcher to ensure transparency with the Institutional Review Board (IRB), Association of Student Conduct Administrators (ASCA), and study participants. The methodology selected for this study assumes the researcher has formed

some pre-understanding of the phenomenon in question, calling upon the researcher's lens as an interpretive tool in the pursuit of truth. Researcher reflexivity (Cresswell & Poth, 2018; Morawski, 2014) was critical to the development of research questions; the co-construction of meaning with participants provided a platform for the negotiation of truth between participants and researcher. The researcher included a positionality statement at the beginning of all recorded interviews to confirm all participants understood the background and experience of the researcher. A researcher positionality statement is also included in chapter one of this paper to provide context for the audience that they may consider the researcher's experience and bias through all sections of the study and paper.

### Credibility

The integrity, or credibility, of this study's research design is evident through the intentional and consistent use of best practices for interpretive phenomenological methods, meticulous and secure record keeping, and the robust research journal maintained by the single researcher conducting this study. The research design of this study can be located within Heidegger and Gadamer's methodologies; these are presented by the researcher as four distinct phases "pre-research, data collection, data analysis, and post-research." I, the sole researcher, was supervised by Dr. Bryce Hughes, Associate Professor in the Department of Education at Montana State University and chair of my dissertation committee. The researcher's committee was compiled of three other professional academics; all four committee members hold doctoral degrees. Other committee members include Dr. Carrie Myers, Professor at Montana State University in the Department of Education; Dr. Sweeney Windchief, Associate Professor and

Indigenous Scholar at Montana State University in the Department of Education; and Dr. Matthew Caires, Dean of Students at Montana State University.

### Dependability

The methods in this study do not lend themselves to reproduce identical findings should it be repeated in the future; however, the replicability of the research design is achievable. The methods used in this study are outlined clearly including the tools and software used in the collection and analysis of data. The objective of replicability should be to “produce findings which resonate with the existing qualitative knowledge about that experience” (Dibley et al., 2020, p. 151). It is important to note that dependability within qualitative inquiry is not intended to duplicate results and should not be considered a flaw of the research design. By following the research protocol as written in this dissertation, a second study of similar rigor and design would generate additional results and findings which could be compared, contrasted, or synthesized with the results of this study to contribute in a separate and meaningful way.

### Confirmability

Confirmability is challenging to demonstrate within interpretive phenomenological methods as the biases and lens of the researcher are valuable tools required for the interpretation of data. Knowing the philosophical assumptions and ontological disposition of the research design, the audience can consider strategies used by the researcher to capture and confirm the essence of the phenomenon as experienced by participants. Design elements to enhance confirmability were semi-structured interview, member checking, co-construction of meaning, participant access to raw data, use of both exact quotes and synthesis in the findings offered by this paper, and reciprocity named in the “post-research” phase of the study. Post-research

includes sharing the findings of the study with participants and with the Association for Student Conduct Administrators during a subsequent annual conference.

### Transferability

This study maintains a high likelihood of transferability within the field of University Student Conduct Adjudication. The audience should make their own considerations of the value of this study and its findings as they relate to their individual experiences and places of employment (Dibley et al., 2020). The findings of this study reflect the perspectives and experiences of the researcher and participants in this study, conducted at the current time and context within the field.

### Chapter Summary

Interpretive phenomenological methods are complex and deeply rooted within the philosophical assumptions which guide this type of qualitative inquiry (Dibley et al., 2020). The method required great openness and pushed me beyond a positivist perspective in which a problem of practice will logically maintain a single, replicable solution. Interpretive phenomenology guides the thinking process; its philosophical underpinnings require expansive questioning and a significant investment of time to move between individual, collective, and personal experiences to “see the forest within the trees,” if you will. Heidegger and Fink’s 1967 *Heraclitus Seminar* examines pre-Socratic philosophy, influential to Heidegger’s Hermeneutic interpretation of Husserl’s transcendental methods (Heidegger & Fink, 1970). Heraclitus pronounced “no man can step in the same river twice, for it is not the same river and he is not the same man;” the sentiment of continual change of self and place as we relate to time and space.

The methodology and research design of this study accepts the knowledge, experiences, and interpretations of participants and researcher with the intention to capture those things as they are at this moment in time. The aggregate experience and interpretation are presented to the audience as a rich description of how the phenomenon is experienced currently, knowing that all elements of the experience are dynamic and depend on the participant's conscious awareness.

I have done my best to capture the experiences of the conduct administrators by thoughtfully constructing a study which allowed me to best utilize my professional situatedness to the topic. The fusion of my academic career and professional ambitions resulted in the identification of a problem of practice which, when examined through interpretive phenomenology, resulted in a richer understanding of the problem to present to the larger community of conduct administrators. The following chapter offers the results of the study which are presented as reconstructed hermeneutic statements supported by final themes identified by the researcher. It is my hope that the results of the study inspire a continued inquiry within the profession; in the spirit of interpretive phenomenology, may the pursuit of hermeneutic understanding end only when we have reached the horizon.

#### Note from the Researcher

As a researcher and educator, I hold personal responsibility and liability to critically examine the use of Heidegger's interpretive phenomenology in my work. Martin Heidegger was a confirmed member of the Nationalsozialistische Deutsche Arbeiterpartei (NSDAP) or National Socialist German Workers' Party, more commonly known as the Nazi party. The Gau Baden records show his official registration as May 1, 1933, card number 312589 (Garrard, 2010). Heidegger's registration with the NSDAP remained active during their devastating occupation of

Europe, then dissolving with the end of World War Two (Garrard, 2010; Farias, 1989).

Historians and scholars have critically reviewed his published works and lectures, from *Being and Time* (1927), to private notebooks and personal letters containing disturbing antisemitic commentary published posthumously (1976). Heidegger was never charged with having committed any war crimes; however, he was interrogated by the Allied forces (Farias, 1989). Heidegger attempted to conceal his affiliation, refusing public comment and never issuing an apology for his contributions to the Nazi Party.

My decision to include Heidegger's unscrupulous positionality as a Nazi in this paper is done so to acknowledge this unfortunate yet factual detail with transparency and to note the problematic irony. Heidegger's mentor and Freiburg Rector predecessor, Edmond Husserl, was born to a Jewish family. Husserl's Jewish ancestry subsequently resulted in his removal from the position and career in academia (Kockelmans & Kisiel, 1970) which Heidegger then pursued. As a human being and scholar vested in the pursuit of equity, I see tremendous value in pausing to critically examine these facts. Many scholars cite historical context when debating the value of Heidegger's work and his position as one of the greatest thinkers of the 20<sup>th</sup> century; not excusing his participation, rather, accepting that "philosophy feeds on itself as the condition of its further progress...[and] philosophy relies...on preceding tradition for insight and impetus" (Farias, 1989, p. 21). I vehemently reject antisemitism, hate, and discrimination of any kind. I acknowledge the generational pain and suffering of all communities who have experienced genocide. I accept my responsibility to actively fight hate in my community and hope in many years, I will be able to reflect on my career in education as a meaningful contribution to the greater good of humanity.

Brain Break

- A. Consider again Heraclitus' pre-Socratic pronouncement "no man can step in the same river twice, for it is not the same river and he is not the same man" (Heidegger & Fink, 1967). What do we gain from exploring our physical relationship to time and space? What is gained by his contemplation that cannot be reached simply watching a man walk back and forth across a river?
- B. Hermeneutic phenomenology calls us to move beyond a dualistic consideration of subject and object; in Heraclitus' scenario, the object is the man, and the subject is his crossing of the river. Heidegger suggests that objects and subjects are of one being, their function together becomes the "thing" worth examining. A phenomenologist would approach the scenario wondering what it feels like to step into a river for the first time, making meaning from the surprised, cautious, delighted feelings of cool water rushing over bare skin. Further, how might a parent feel when watching their child experience this for the first time? And what meaning can be generated from this shared experience?
- a. What can we gain from exploring the experience of adjudicating university conduct from the perspective of the administrator?
  - b. How do conduct administrators interpret the facts of a case differently for one student over another and why? Is this equitable, why or why not?
- C. Generate your own meaning from the questions posed and write down any new questions you have about the topic of this study, phenomenological methods, or phenomenology applied to understanding implicit biases.

## CHAPTER FOUR

## FINDINGS

The purpose of this study was to explore the lived experiences of university conduct administrators to better understand the phenomenon of administrative resolution of student misconduct. This chapter includes participant descriptions, researcher pre-understanding, and study findings. As suggested by Dibley et al., (2020), meaning rendered from the explication of participant contributions was constructed in a process of negotiation between the participants and researcher. In this study, the “showing” of meaning (Benner, 1994) is best described by three statements which reconfigure the final themes identified in phases one and two of analysis. Findings demonstrate a snapshot of participant experiences which can be used to raise the consciousness of the audience and to expose areas for practical application and improvement. Findings are limited to the scope of this study, exploring university conduct administrator’s experiences with administrative resolution. Findings are presented in their deconstructed and reconstructed forms, these include summative hermeneutic statements supported by final themes, situated narratives, and individual participant quotes.

This study sought to answer the following guiding research questions:

- 1) How do University Conduct Administrators (UCAs) experience administrative resolution?
  - a. How might the personal experiences of UCAs influence administrative resolution?
  - b. How might the professional experiences of UCAs influence administrative resolution?

- 2) How do UCAs navigate professional discretion and case context during administrative resolution?
- 3) What insight do UCAs have regarding their own implicit biases?

### Participant Descriptions

Participants in this study have 101 years of combined professional experience in university conduct; 109 years including the professional experience of the researcher. Excluding the researcher from the remaining description, the 11 participants represent 11 different public postsecondary institutions from 11 states across the United States including Wyoming, Montana, Colorado, Texas, Florida, North Carolina, New Jersey, Kentucky, Michigan, Arkansas and Ohio. The participants in this study are highly educated; ten of the 11 participants had completed a master's degree or higher. The participant without an advanced graduate degree brought a wealth of knowledge from a prior career in criminal justice and detention. Two participants held doctoral degrees and three were currently enrolled in a doctoral program. The overwhelming majority of graduate degrees present among participants could imply it is a preferred qualification for a role as university conduct administration.

The sample included eight men and three women; nine participants elected to provide additional descriptive information they felt was relevant to their identity as it relates to their contributions to this study. First generation status, sexual orientation, race/ethnicity, religion, marital status, parental status, gender identity, family heritage, fluent languages, and immigration status were additional descriptions voluntarily shared by participants. I was curious to observe what characteristics participants self-elected to disclose; it could suggest these characteristics are salient to their identity which is valuable for in-group/out-group categorization (Tajfel & Turner,

1986) and relevant to implicit biases unconsciously held by participants. Participants institutional characteristics will remain aggregated for anonymity; these include public colleges or universities in the Big 12 and Big 10 conferences, R1 (Carnegie classification constituting high research activity), Land-Grant, Hispanic Serving Institution (HSI), and Residential.

Table 2. Participant Characteristics.

Alias	Gender	Education	Years in Conduct
Mary Jane	Female	Ph.D.	7
Charlie Coleman	Male	B.S.	3
Kevin Grover	Male	M.S.	6
Gunther Haas	Male	M.A.	10
Zane Jefferson	Male	Ed.D.	15
Grace Jones	Female	M.Ed.	7
Ben Mallow	Male	M.Ed.	10
Clyde Miller	Male	M.A.	5
Marcus Nestor	Male	M.S.	15
Stacy Smith	Female	M.A.	4
Matthew Williams	Male	M.Ed.	20

### Presentation of Findings

Interpretive phenomenologists are careful to honor the “fluid nature of being” (Dibley et al. 2020). As such, I reconstructed the final themes into the following hermeneutic statements which convey more sincerely the summative findings described by participants. I was careful to consider language that would capture the “ontological experiences instead of categorical ideas” (Dibley et al., 2020, p.160).

### Statement One

The issues of consistency, bias, and equity regarding administrative resolution of university student conduct adjudication are of concern to university conduct administrators. Supporting themes include affirmation of my pre-understanding and study value.

### Statement Two

University conduct administrators experience administrative resolution differently; institutional policy and procedure, available resources, individual experiences, and students may contribute to this variance. Administrative resolution as a pathway to resolve university student conduct is interpreted and applied differently from institution to institution. Supporting themes include the Institution, available resources, personal and professional experiences, and the student.

### Statement Three

University conduct administrators have insight into their own biases and appreciate the value of equity; currently, they are unlikely to be substantiating this sentiment with consistent and objective review of case data. University conduct administrators have resources to “do the work;” however, resources and support to integrate emerging best practices remain a barrier to move “beyond the work.” Supporting themes include collaboration, Spectrum of Resolution Options integration, reflection and intention.

## Hermeneutic Statements and Supporting Themes Expanded

### Statement One

The issues of consistency, bias, and equity regarding administrative resolution of university student conduct adjudication are of concern to university conduct administrators.

Supporting Themes: Pre-understanding and Study Value. A cornerstone of Heidegger and Gadamer's methods, my pre-understanding has been developed and referenced at each stage of the research process. Unlike the Husserlian Transcendental bracketing, or removing of my own "prejudices" (term used by Gadamer), the foundation of interpretive phenomenology rests in the "always-already" investigation that happens as a part of daily existence, our Dasein, or "being in the world" (Dibley, et al., 2020). Reflexivity through discussion with colleagues and participants, free-writing, and memoing allowed me to think deeply about the experiences of my participants while also exploring and challenging my own preconceived expectations to the benefit of the study (Dibley, et al., 2020).

Researcher Experience. In my own experience, each student and misconduct case I was assigned presented me with unique challenges, opportunities for development, connection, and professional experience. The great majority of my cases have been resolved "informally" through administrative resolution. The "informal" yet "formal" resolution process seems to be a point of confusion or misinterpretation generated within the field. I value individual cases which I was able to mentor or guide a student to resources which provided support to mitigate poor behavior choices; with the same breath, I can reflect on as many experiences where students were unwilling to accept responsibility, would not consider the impact of their actions on others,

and rejected the opportunity for assistance of any kind. These cases weigh on the human who lives inside of my professional armor; I worry for my students, I care about their decisions and their futures, and I hope that what I do in my professional role makes a difference in our campus community and in the lives of the students I serve. I also know that the lens by which I view the world must, in some capacity, influence the decisions I make and discretion I use as a conduct administrator. In the eight professional years I was responsible for resolving university student conduct, I have never been asked by a supervisor at any institution I have served at, to pull my personal case data for the expressed purpose of reviewing for consistency, bias, or patterns of any kind. I also have never been asked to pull aggregate discipline data on behalf of the department or institution for the expressed purpose of reviewing for consistency, bias, or patterns of any kind.

My Dasein, my way and being a conduct administrator, is the impetus for this study. Over the course of time, the pursuit of my graduate education, gained experiences, and professional development have influenced my own understanding of the work I do, spurring deeper thinking and problem solving. I became curious, concerned even, about the seemingly unquestioned and awesome power my role as a conduct administrator held. The interpretations and decisions I made had the ability to influence students' lives in very tangible ways, for years into the future. I questioned the disposition, skills, and abilities of other conduct administrators, wondering what values and experiences were guiding their decision-making process and if they had ever considered this problem of practice within our field. I have witnessed other conduct administrators manipulate procedure to the benefit of the institution, recommend lesser sanctions

because the student “seemed sorry,” and privately discussed cases with peers so frustrated by repeat-offenders tears streamed down their face.

Study Value. I closed each interview by asking participants if they felt this study was valuable, all 11 ardently agreed. Two participants expressed they only agreed to participate in the study because they felt the topic was such a valuable contribution to the field of university conduct administration. The unanimous agreement that UCA biases and consistency within administrative resolution as a valuable talking point, training topic, and necessary discussion within the field is a primary finding of this study. Dr. Mary Jane, a middle-aged conduct administrator at an institution with over 60,000 students suggested bringing the topic to program directors within her conference:

We all have administrative processes. I think it’s a good topic for us [director level and above] to really talk about unconscious bias... because how do you know you’re being consistent...where are the checks and balances?...I think we’ve done a really good job about those checks and balances...I bet there are some places that are struggling [with] how to do this.

Dr. Zane Johnson, a conduct administrator with over 15 years of professional experience in the field of university conduct adjudication suggested that equity work in conduct adjudication is secondary to priorities of Title IX (gender equity and sexual violence adjudication on campus).

Marcus Nestor, also a seasoned conduct administrator with 15 years of professional experience echoed this sentiment,

I think there [are] probably a lot of gaps, a lot of holes, a lot of disparity...we can’t fix everything by standardizing...by having external oversight, but I think that people (university discipline programs and/or conduct administrators) do have to have some motivation...”

referencing how his institution’s Clery report and ASR are completed on time, without fail, annually.

Without analyzing data, how can a university discipline program demonstrate consistency within administrative resolution? Ben Malloy and Kevin Grover considered the topic of the study valuable, Ben stated “especially if we’re doing administrative agreements. It’s one person, one person in a room. There is no necessary oversight, so I think, identifying...is there some impact that is happening?”

Kevin questioned.,

Do your students feel [they’ve been treated] equitably through the process? Is your process equitable? Are you coming in [to the administrative resolution] with implicit biases... [are you] walking the walk and really having those conversations [in your department] and pulling the data?

Clyde Miller, a mid-level conduct professional currently pursuing a terminal degree in higher education, suggested “across the field, I think we all recognize the need for better metrics, better transparency.” The agreement of all my participants, that the study topic was valuable, confirms the problem of practice within the field either from their own experience or consideration of consistency among other institutions affirms my pre-understanding of the study topic. It also implies there is a necessary discussion within the field of university conduct administration that has yet to take place, exploring issues of equity and consistency in administrative processes. For many conduct programs, administrative resolution remains a blind spot; remaining between traditional and contemporary philosophies and practices.

### Statement Two

University conduct administrators experience administrative resolution differently; institutional policy and procedure, available resources, individual experiences, and students may contribute to this variance. Administrative resolution as a pathway to resolve university student conduct is interpreted and applied differently from institution to institution.

Supporting Themes: Institution, Resources, Personal and Professional Experiences, and Student.

The process and/or procedures of administrative resolution described by participants seems to fall along a spectrum of sophistication or evolution that mirror changes that appear within the field of university conduct adjudication itself. Elements not evaluated in this study that might influence an institution's protocol for administrative resolution could be institution type and size, state or regional location of the college, and student type. Without analyzing the participant's respective student codes of conduct, sanctioning guidelines/matrixes, hearing scripts, policies, and procedures, it is challenging to grasp exactly how different the practice of administrative resolution is from one campus to the next. Although not a focus of this study, a content or policy analysis would offer additional insight into the current practical interpretation of hearing precedent (*Goss v. Lopez*, 1975) and could generate a more intentional inspection of the court's definition of what constitutes an "appropriate hearing." It could also enlighten the profession of university conduct to thoughtfully reconsider guidance for administrative processes which define more clearly how the pathway is defined, when it is appropriately applied, and what protections (outside of an appeal) should be standardized to ensure equity and consistency across the field. The participants' perceptions of their respective processes generally reflected a sense of satisfaction and acceptance of the process they currently adhered to; however, every participant included in the study referenced a concern about administrative resolution at either a previous institution they had worked for, or another institution they did not currently work for but were aware of. This study is not a policy content analysis, rather, an exploratory investigation of the experience of administrative resolution.

Institution. When asked how they have seen processes have changed over time, all but one participant described changes in their experience with administrative resolution as they moved institutions and/or as they progressed in their career. The participant who could not describe how the administrative pathway had changed over time was in his first university conduct role and had been employed at only one institution. Evaluating my own experience, I too have experienced different protocols for administrative resolution at the four campuses I have been employed with. In my own experience, the administrative resolution pathway has been referred to as “informal agreement, administrative agreement, educational conference, and agreement in writing.” The participants in this study described the administrative resolution pathway on their respective campus using the terms “administrative agreement, administrative conference, mutual agreement, administrative review, informal case resolution, administrative hearing, informal hearing, and conduct hearing.” Participants in this study each held different job titles, some more similar than others and some combined with other campus roles to represent as many as three different areas within student affairs. I have intentionally excluded participant job titles from the study as a measure of maintaining anonymity. The content of their title is less important to their experiences relating to this study; however, I have chosen to include the differences as an aggregate statement to support how participants further experience administrative resolution differently based on their exact roles and responsibilities. Statement three includes an evaluation of the sophistication of procedural elements involved in administrative resolution; it is unclear which (if any) Spectrum options (Schrage & Thompson, 2008) have been integrated into their respective programs. I have chosen to group participants using colloquial terms “old school” and “new school” because they generate a more familiar

comparison than describing them as belonging to “traditional” or “restorative” adjudicatory philosophies (Schrage & Giacomini, 2020).

One emerging trend across the United States is state intervention in university student conduct policy and procedure through state law. Kevin Grover and Grace Jones shared how their experiences with administrative resolution have changed with state intervention. I have excluded details, including which state they currently work in, to preserve their anonymity. This paper does not include a content analysis of state law and does not seek to demonstrate how these directly influence procedural implications at colleges and universities. Future researchers may consider a study assessing the impact of state intervention on university conduct policy. Kevin Grover serves at a mid-sized public university and has six years' experience adjudicating conduct. In 2022, significant changes were made to his respective state laws that directly influenced university conduct adjudication, defining and outlining procedure for the resolution of alleged university student misconduct which may result in suspension or expulsion. Kevin Grover was hesitant, frustrated even, considering the mandated procedural adjustments for administrative resolution... “We never used to do mutual resolutions... I was the investigator [and] adjudicator and that was it.” The impact of restructuring the process is burdensome to conduct administrators, “at first, I wasn’t with it... this is just a lot more work, this is terrible.” His hesitation seemed to be generated by knowing there would be an undue increase in workload that would inevitably be distributed to staff. After integrating the changes, Kevin had a change of heart, “I now realize how impactful it can be for the student to take a more active part.”

When explaining how a single state-initiated data query of university discipline data shaped their now routine data assessments, Kevin shared pulling discipline data annually “helped

us tell [a positive] story around what we were able to change.” After reviewing the state query, substantial changes were made to sanctions which were disparately impacting some groups over others; these changes allowed for the conduct program to better serve their student population which is predominantly first-generation and low-income. Kevin’s experience could imply an initial frontload of work which would initially tax a conduct program but would benefit students in the end. Grace Jones described state intervention as limiting in her state. Grace’s respective state has very clear definitions of formal and informal processes which greatly influence the procedural requirements for each pathway; for example, a formal hearing permits a student’s attorney to actively participate in the conduct proceedings on the student’s behalf while an informal pathway, only accessible to the student if they agree to a responsible finding, does not. Grace described adjudicating misconduct through administrative resolution as being less pressure on her as an administrator. She is not the determining factor for a responsible or not responsible finding but will offer recommendations for sanctioning. When asked if her institution collects and analyzes discipline data for disparate patterns, she shared the institution had done one recent review using CAS standards, but they would likely not review this data annually. Grace felt limited by the state’s laws regarding communication of public employees:

Everything we do can become a public record. We are very cognizant of what numbers and data we want to put out there... there are so many people who just want an opportunity to get anything they can find to use it against us (the institution) ...we needed our numbers (discipline data) to advocate for more staff... I had to call him over the phone because we didn’t want there to be a record of how many cases we had.

Guided by her awareness of implicit bias and personal values to ensure equity in her own practice, Grace audits her own discipline case data for disparate trends. Her fear or mistrust of how discipline data could be used against the institution or herself as an administrator guides her

willingness to compile disaggregated reports that could be used to demonstrate the need for additional staffing or other resources in her department.

The range of informal, yet formal definitions and procedures I have seen for the administrative pathway continues to confuse and concern me. The application of the definition is interpreted largely by the leadership responsible for the student code of conduct and the adjudication of alleged policy violations. State intervention of adjudicatory procedure is perceived both positively and negatively by conduct administrators in this study, further research is necessary to determine which elements of state intervention serve as protective factors for equity in university student conduct adjudication and which serve as risk factors.

Available Resources: Finances, Staffing, and Software. Financial resources, staffing, and software also influence how administrative resolution is experienced by university conduct administrators. The participants in this study agree that adequate resources serve to protect equity in their respective processes while inadequate resources may serve as a risk factor. Several participants communicated a feeling of under appreciation; to them, the conduct office is a low priority to the institution and therefore remains limited in its capacity to improve, upgrade, and integrate with emerging best practices. Stacy Smith shared “no one wants to acknowledge the student conduct offices... we’re only here because we have to be; what’s the minimum staffing we can have for them to get by? Let’s just acknowledge their existence if we (the institution) don’t have to.” Clyde Miller suggested he feels his office adequately staffed, except when “someone resigns and all of a sudden that puts a little more on everybody else.” Marcus Nestor offered the following reflection that captures this sentiment fully:

You asked me if we have enough staffing to do the work... I think we have enough staff to do the work. I don't know if we have enough staffing to go beyond the work, and I think that's really key... I have asked my institution to put their money where their mouth is...if restorative justice is a core tenant of what you see as key to your anti-racist institution, you have to give me the people who can do that.

In my experience, institutions rely upon administrative resolution to adjudicate university student conduct because it is timely (for the administrator and for the student) and can be accomplished with limited financial and/or staff resources. The integration of case management software has been instrumental in the optimization of university student conduct offices; however, an institution's investment in software does not negate the need for intentionally developed policies and procedures which appropriately mitigate systemic inequities nor does it account for adequate staff training for investigating and resolving conduct cases equitably. All of the participants in this study, including the researcher, work for institutions who utilize Maxient software for case management. Founded in 2003, over 1,300 institutions use the Maxient platform to improve communication and record storage necessary for complexities experienced by modern colleges and universities ("Maxient about," n.d.). The unanimous use of this proprietary software among participants suggests to me that efficiency of process for all conduct pathways is of high priority and value to colleges and universities. This tool greatly influences how administrators experience administrative resolution; particularly as they move from one institution to another. The standardization of language, process workflow, and record keeping for postsecondary conduct who utilize this platform is unmatched by the ED.

Although Maxient does not provide guidance on institutional policy and procedure, it does provide inspiration and training examples for their clients to shape their respective case management processes. When asked how the implementation of Maxient software shaped her

experiences resolving conduct over time, Mary Jane said this: “There was no such thing as case management software in the beginning. It was all just paper.” Reflecting on her early career, Mary Jane shared:

In the beginning...the meetings with students were very informal. We didn't record anything, we didn't have the student sign anything, we just kind of pulled them in, met with them, told them what the charge was, went through their rights and responsibilities... it was all done in-person, informally... Over the course of the decades, because of legality, we really had to go to a more sort of, legal process of making sure we get things signed, making sure we get letters out, making sure we get the student to acknowledge that they've been read their rights and responsibilities... all of that is to protect us in case of a lawsuit. So, I've seen that really change overtime.

Further research is necessary to determine how the use of Maxient software has impacted the field of university student conduct adjudication overtime.

### Personal and Professional Experiences

When asking participants to reflect on cases which they experienced a visceral response, I observed incongruences between participants' communicated values of equity and consistency and the influence of their personal and professional experiences on case outcomes they described. Only two participants, Mary Jane and Charlie Coleman, denied ever experiencing feelings or emotion of any kind while resolving student conduct; Mary Jane did express witnessing this phenomenon in other, inexperienced conduct administrators:

We work with graduate interns, and I know that when I'm training them, they have real feelings about what they're doing and sometimes they feel scared. 'Am I making the right decision? I could be impacting a student's academic career...' and so they feel a lot of pressure. Sometimes they take it on personally, like a kind of sadness. Me? Never.

She went on to explain her ability to remain unaffected made her “a tough one (participant)” to understand, acknowledging she may be an outlier among my participants. Mary

Jane and Charlie Coleman remained outliers among the sample as they did not openly admit that they had ever consciously experienced an emotional reaction during an administrative meeting with an alleged student. The curious dissonance I observed in both of their interviews, which substantiated the experiences of the other nine participants, was their willingness to apply discretion differently for sanctions. This topic is discussed in more detail under the subsection “student attitude, honesty, and accountability.”

The other nine participants expressed they had experienced a visceral reaction, some admitting upon reflection, they had likely experienced countertransference, a term applied to mental health counselors who projects their own unresolved issues onto a client. Stacy Smith, a conduct administrator who absorbed the responsibilities of the position to fill an institutional vacancy expressed a powerful and exposing insight:

If people are truly honest with you in this process, I truly believe there is no one who can say no (to having a visceral response to a case) ... because it's only natural, we are all humans, I think the longer I have [done this work] my visceral responses are less and less, but it most definitely has happened and continues to happen. As a professional, I can't lie about that.

Personal Experiences. Although this study was not designed to determine what formative personal and/or professional experiences influence conduct administrators' decision making; the experiences shared by participants point to these as impactful, nonetheless. Several participants shared examples of their personal lives including their upbringing, personal experiences, struggles, identities, and individual moral codes when reflecting on when and how they applied their professional discretion to a case.

Many participants expressed they were more likely to “root for the underdog,” empathizing with students who had similar experiences, backgrounds, or challenges they did.

There are difficult boundaries to navigate as a university conduct administrator; building rapport with a student and maintaining professional distance, mentorship and friendship, institutional authority and student development. The application of this discretion, from a Heideggerian perspective, cannot be removed from the adjudicator and subsequently, their decision making. Examples of these among participants included coming from a poor background, representing the LGBTQ community, first generation status, coming from a marginalized background, having an incarcerated parent, coming from a conservative or sheltered background, struggling with a romantic relationship, challenges with alcohol or other drugs, race and ethnicity, and social connectedness. Although I cannot substantiate how these may have influenced cases, the findings in this study suggest these factors are more likely to influence the sanctions a student receives and less likely to influence a case finding or outcome.

Professional Experiences. The professional experiences of participants in this study culminated in a sense of maturation gained only through years of practice, breadth of case experience, and case quantity. The maturation of the adjudicator includes a willingness to listen to the student for the purpose of understanding rather than fact finding i.e. investigating primary student needs or issues that result in secondary behavior choices, guiding or facilitating the student to accountability and reflection rather than proving a case, requiring a higher burden of proof than the preponderance of evidence standard, and having a balanced sense of allegiance to both the institution and the student. Often gained through trial and error, the participants in this study shared positive and negative professional experiences that had a lasting impact on their approach to administrative resolution. Reflection of my own career in student affairs was a primary motivator for this study. 95% of the conduct cases I have managed have been resolved

administratively through one-on-one discussion between myself and the alleged student. My professional experiences largely guided the adaptations I applied to my approach to administrative resolution; at no time have I received formal training on what administrative resolution is or how it should be done. I have interpreted and applied institutional policies in my role as a conduct administrator through a process of trial and error. Over time I have refined my “approach” to this resolution pathway. The “approach” or interpretation of institutional policy varies among professionals at every institution, and more so across different institutions.

Participants described how they had matured in their professional approach over time, serving more as a facilitator of student learning and less as an authoritative figure of the institution. When asked how their approach to administrative resolution had changed over their career, many shared they were less emotionally reactive, had become better listeners, and when pressed by a case with circumstantial evidence which barely met the preponderance of evidence standard, would raise the threshold in favor of the student. I interpret this maturation of the seasoned university conduct administrator as having the ability to hold both the interests of the institution and the student equally. It would be greatly beneficial to accomplish a longitudinal study with conduct administrators, examining their values, knowledge, and skills at entry-level, mid-level, and senior-level career points to see how these shift overtime and what implications this might generate for developing competencies.

When I reflect on my growth as a conduct professional, I was allied more closely to the institution in my early career. It is possible that I had projected my own respect for institutional authority onto my students and in doing so, unconsciously aligned myself as a protector of the institution. Perhaps with age I naturally came to hold a different relationship to institutional

authority. Over the course of that time, ten years or so, I also gained professional development, completed two advanced degrees, and worked for different institutions so that I am now better able to hold the interests of the student and institution at once. When I asked participants if there was any substitute for experience, Gunther Haas played that there were ways to create the illusion of experience on paper, but ultimately expressed “you need time to be able to reflect and to learn things that you might see at a conference or in a publication or journal...you need to also have the actual experience of being in the field and doing the work.” The practiced application of knowledge and skills *with* the benefit of sufficient time to reflect and learn from experience further supports the need to establish recommendations for observation and demonstrated competency hours. Reflective questions, such as those included in the guiding “Brain Breaks,” may be useful in facilitating this among university conduct administrators.

Student: Resources, Parental Involvement,  
Attitude, Honesty, and Accountability

The balance between educationally grounded outcomes and unbiased conduct adjudication comes to a head with the conduct administrator’s interpretation of the individual student’s development and learning (Schrage & Giacomini, 2020). The study sought to understand how conduct administrators experience this intersection by evaluating their perceptions of their own discretion through case reflection. I asked participants to consider cases they now wished had a different outcome, if they had ever felt pressured to change their approach, finding, or case outcome, and to recall a time when they had sanctioned a student too harshly or not harshly enough. Upon reflection and discussion between participant and researcher, nine of eleven conduct administrators could recall a case or experience in which student characteristics impacted their decision making at one or more step(s) in their process.

Student's Available Resources. Several participants described experiences where the financial resources available to the student, specifically students who came from low-socioeconomic backgrounds, were considered when weighing the impact of a potential sanction. This study did not examine the sanctions used by participants and did not attempt to evaluate which participants sanctioned from traditional program models or the emerging restorative models. Postsecondary institutions are well within legal precedent to issue sanctions for policy violations at their discretion; the literature would argue this flexibility is essential to educational nature and function of the postsecondary environment. My question is whether conduct administrators are attempting to “meet the student where they are at” by applying discretion to sanctions confined within a traditional program while loosely accommodating emerging contemporary trends. In other words, the traditional policies and procedures maintained by an institution and the restorative perspective adopted by the conduct professional do not match. Perhaps contemporary university conduct administrators see the value of integrating alternative resolution options but are limited in their ability to advance beyond the traditional, “old school” framework. In this case, the administrator might be more willing to defy the bounds of institutional precedent or even written policy to better meet the needs of the student. Straying from policy, even for benevolent reasons, increases the institution's culpability should a student who is not afforded the same grace choose to challenge an administrator's inconsistencies.

Nine of eleven participants felt concerned when sanctions inadvertently resulted in secondary consequences that would impede the student's ability to remain enrolled at the college or university and continue their education. Ben Malloy, Stacy Smith, and Matthew Williams shared experiences where a student was to be removed from campus housing as a consequence

of violating the student code of conduct. In all three cases, housing removal had a significantly larger impact on a student from lower socioeconomic backgrounds which would result in their homelessness and inability to continue in school. The weight of the decision to pursue the sanction was palpable among these participants, although in each case the student had elected to resolve their conduct through administrative resolution, their choice to pursue a “less” formal pathway (although still formal from the perspective of the institution) still resulted in significant sanctions. Matthew Williams expressed empathy for students facing housing removal who come from low-socioeconomic backgrounds by sharing the following:

For me, the big thing is I came from a very poor background. I believe that it's less likely when they (students also from poor backgrounds) are separated from the school that they are going to be able to make it back just because the resources aren't there. So, I worry about that a lot. More than I do the students, and these are stereotypical generalizations that I have, right? Then the student who has the parental support. When [the parent] walks in the door and hands you a business card, you know they (the student) have means financially...I know it doesn't make everything great, [but] they have a great lawyer. When that student (high financial resources) leaves here, they're going to go somewhere else and they're going to achieve their degree...it doesn't hit me as hard emotionally [as the lower income student]...Who knows what's going to happen to that person when they leave here?

It is possible participants are describing a form of reverse discrimination (Fullinwider, 1980); however, further research is necessary to determine if the phenomenon exists or if it is pervasive across the field. Many participants described their willingness to offer flexibility in sanctioning when they felt it was in the best interest of the student. Gunther Haas arranged meetings around student productions and athletic events, Marcus Nestor offers incredibly flexible scheduling and deadlines for commuter students and students with children, Kevin Grover is mindful of fuel prices and how those impact his low-income student's ability to travel to and from campus. The flexibility and discretion applied to students who are cooperative,

forthcoming, and communicative about their needs is met with accommodation and understanding. I have great pause at this finding. I have experienced well-mannered, professional, introspective students. During those interactions, it feels acceptable to offer flexibility and understanding to this student as good behavior begets good behavior. I have also experienced students who are noncompliant, difficult, and intentionally disruptive to the conduct process as an expression of their unwillingness to submit to the authority of the institution.

There are obvious limitations a conduct office has in circumstances where a student displays additional bad behavior while participating in the conduct process. We must consider safety, operational continuity of our offices, and address the emerging bad behavior as it relates to the student code conduct. The interpretation of the student's honesty, accountability, and attitude as a measure of student learning disregards alternative explanations which may account for poor attitude, dishonesty, and lack of accountability such as fear, trauma response, anxiety or other mental illnesses, cognitive challenges, among many others. The individual interpretation of the way a student "shows up" to a meeting has a powerful impact on the case and the student. This dilemma illuminates how challenging the role of a university conduct administrator is and how vulnerable students can be to the administrator managing their case. It might be that the profession begins an intentional conversation about the limitations of administrative resolution to generate procedural adjustments that can be adopted by conduct programs to maximize equity and consistency and minimize disparate impact and discrimination.

Parental Involvement. Charlie Coleman, Grace Jones, and Matthew Williams expressed a shift in approach to administrative resolution when a student's parents were involved in the meeting. Charlie Coleman, the participant representing the least formal experience in an

administrative conduct role (three years) shared a story of when he defended a female student whose parent became unnecessarily critical and disrespectful toward the student, during the administrative meeting. What struck me as he described the situation was his unrelenting commitment to the value of mutual respect among participants, which required a shift in social expectation upon the parent as he maintained authority over the meeting. All participants described feeling pressure to produce a favorable outcome from within the institution and outside the institution, and all shared a sentiment that feeling pressure and caving to pressure are two different things.

Matthew Williams, an administrator with 20 years' experience adjudicating university student conduct expressed that he experienced parental involvement much differently at private institutions than when he was employed at public ones. From his perspective, parents whose children were attending private schools were more likely to call him and more likely to be involved in the student's conduct adjudication process. I did not explicitly ask participants to examine their experiences of parental involvement during administrative resolution; Matthew Williams including this detail in his interview suggests to me a substantive difference in expectations from parents whose children attend different postsecondary institutions. Further research is needed to explain the impact this may have on administrative resolution at private schools versus public schools. Michael did not describe the presence of parents being a factor which would influence the outcome or finding of a case. Grace Jones has seven years of experience in student conduct, expressed a different perception of parental involvement which may have directly impacted her and her approach to administrative resolution.

I recall a time when I've been, more humbled, I think...by seeing the level of support that students have...if their parent is who's their advisor and the parent is like,

“yeah, you’re going to do everything the university expects of you,” then it’s not a bad thing. [The parents] are so invested in the student’s well-being that, in some ways, I think that almost softens me...I don’t necessarily have to maybe push as hard... they’ve already gotten a lot from that person.

In all three instances, the conduct administrator’s perception of the parent or parental involvement was a notable experience. Grace Jones’ experience is a particularly interesting contribution to this study; her perception of parental involvement and accountability resulted in her backing away from her authoritative responsibility in her role as conduct administrator. Grace Jones shared in her interview that one of her parents had been incarcerated during her childhood. Although my findings cannot suggest a direct correlation between her sanctioning and the student’s parent involvement, the circumstance invites further curiosity regarding her reflection upon an action that she seemed to be unconscious to at the time she adjudicated the case. I am confident all university conduct administrators can recall positive and negative experiences involving an alleged student’s parents; until reviewing Grace Jones’ transcript, I had not considered the unconscious heuristics, biases, or formative experiences I have toward my own parents or how these may inadvertently influence my work as a conduct adjudicator. This unconscious consideration by Grace Jones exemplifies the unpredictability of how our unconscious associations and attitudes might manifest beyond what we can anticipate and mitigate through individual DEI competencies. This serves as an example of the impact of a conduct administrator’s implicit biases directly influencing the sanctions resulting from a case.

Student Attitude, Honesty, and Accountability. A significant finding of this study is the impact student attitude, honesty, and accountability had on the participants’ discretion in sanctioning. As referenced above under the subsection “Conduct Administrator: Personal and Professional Experiences,” there are observable inconsistencies between participants’ expressed

value of equity and consistency and contextual considerations for sanctioning. In one breath, Mary Jane articulated that “everyone gets treated exactly the same.” She then offered the following caveat:

The only way we would default from our sanction guide would be how a student presents themselves in terms of, are they feeling any remorse? Did they admit to it? Did they learn from their mistake or behavior or from the decisions that they make? And then we can go a little lesser than the guide.

The perception of student learning based on attitude, honesty, and accountability during an administrative meeting appeared to have some influence on the conduct administrator’s sanctioning. This was expressed by Nick Grover, Grace Jones, Charlie Coleman, and Clyde Miller. The conduct administrator’s interpretation of these actions or values presented by the student during the administrative meeting appears to have resulted in a lowered sense of responsibility to provide sanctions. Individual interpretation of these values is entirely subjective; yet falls within the unanimous sentiment expressed by all participants that “sometimes it just depends.” The use of sanctioning guides and/or matrixes is explored more under the statement three subcategory “Spectrum of Resolution Options integration.” Grace Jones acknowledged a student’s willingness to accept responsibility does influence her in some way during administrative meetings, admitting “yeah it does, but I don’t necessarily think it should.”

All participants pressed students during administrative meetings if they sensed the student was not being truthful or observed the student omitting facts that would potentially implicate culpability. Participants felt a strong responsibility as a facilitator of student learning to provide opportunities in the discussion for the student to examine their own honesty and accountability; student dishonesty and or lack of accountability suggested to participants that learning had not occurred. When asked how they knew a student was being honest or dishonest

with them, several participants described a sort of “sense” or intuition; this is likely a heuristic or bias they have developed through associations and case commonalities over years of exposure. Gunther Haas described it this way, “you know, I’ve been doing it for so many years. I feel like sometimes I am [Detective] Stabler from SVU (television crime drama series). I can just tell when someone is not being honest with me. I have that Spidey sense now.” Matthew Williams shared a similar sense:

I read a book once, and the first thing it said was ‘there’s no test [for honesty],’ ... I don’t know...I have certain things, you know, it’s just a feeling I have... I know it’s not a scientific proven method... but there should be some nervousness...or too much detail that didn’t need to be shared...

When I asked Charlie Coleman how he knew a student was being honest and how that might impact his meeting, he gave two examples:

It doesn’t, but...usually, [say for example] a student is dealing drugs. So, you had the famous black backpack that they all have. You have a scale. You have two boxes of zip lock bags. You had a quarter pound of marijuana. You have paraphernalia. Oh, but you aren’t selling? You don’t have flour, eggs, butter, sugar all on the counter at the same time unless you’re baking a cake, right? This is no different. Once they can see that I’ve already put it together...

Ben Malloy: “You know for me, I see honesty in a lot of situations where students will say, ‘yeah, we did this, but it’s not as bad as you think.’ Those are the people I trust a little more. The people who come in and say “I never did anything wrong a day in my life” when the report says you were somewhere you shouldn’t have been...yeah, those are the ones we gotta actually have a conversation with...”

Zane Jefferson and Kevin Grover felt the student’s honesty had no bearing on their decision; the processes at their respective institutions allowed them to move the student to a formal hearing should they not cooperate with the informal or administrative resolution. The establishment of procedural protections for students who choose not to agree to an administrative or mutual agreement are unexplored. I argue this moment in the administrative process is critical discussion

to continue among practitioners to evaluate recommendations for equitable best practices. I have witnessed this critical moment in the administrative process be used as a “strong arm” against students. The student essentially has one chance to state their “plea” if you will and agree to the charges and sanctions offered by the administrator. Should the student choose not to accept responsibility by offering a “plea” of not responsible, essentially rejecting the administrator’s offer, they then move into an entirely new “formal” process. This is a very vulnerable position for an alleged student to be placed in, particularly if the “informal” and “formal” processes occur within a single scheduled meeting. I do not ask myself how this is confusing for students; I ask myself how is it not? Particularly for first-generation college students or students who do not have guardians or counsel to assist them.

Participants were also asked to reflect on a case they wished had a different outcome and to recall a case, in retrospect, they sanctioned too harshly or not harshly enough. Gunther Haas recalled both experiences:

Yeah, yeah. Both of those have happened, usually if I see a student complete their outcomes in a time frame that I thought was very quick. Then I think, ‘oh man, I should have given something that would have taken more time...If a student behaves like a little shit in my office, I almost hate giving them the outcomes that were initially put on the piece of paper. I almost want to say, wow, you should have exceeded this by some margin. It always leaves a bad taste in my mouth. But I don’t...

I am grateful for the candid and fruitful discussion with Gunther, and with all of my participants. Their bold vulnerability should be recognized as courageous; I’ve chosen this juncture in the paper to acknowledge the sense of retribution present in the comment. A reader may be quick to pass judgement about Gunther’s ability to maintain a consistent standard of professionalism in his role; I would like to redirect the reader to the last two statements of his comment, “it always

leaves a bad taste in my mouth. But I don't." I think Gunther is experiencing a battle between egos, disclosing this openly in his interview, he invited me to examine this more thoughtfully. I think we have all been here at one time or another in our careers and it takes a mature professional to express it aloud for the benefit of the profession as a community. We generate accountability for ourselves and our colleagues when we are honest about the things that impact us at work; "we cannot change what we are not aware of, and once we are aware we cannot help but change" (Sandberg & Scovell, 2013).

### Statement Three

University Conduct Administrators have insight into their own biases and appreciate the value of equity; currently, they are unlikely to be substantiating this sentiment with consistent and objective review of case data. University conduct administrators have resources to "do the work;" resources and support to integrate emerging best practices remain a barrier to move "beyond the work." Supporting themes include collaboration, Spectrum of Resolution Options integration, reflection, and intention.

Collaboration. Ten of the eleven participants in this study named having a collaborative relationship with either a peer or a supervisor as beneficial to preserving equity in administrative resolution of university student conduct. When asked what it feels like to have sole authority over investigating and adjudicating a misconduct case, many stated they had not considered this before. Responding to my question by offering examples where they included other people in their decision-making process communicates to me some of my participants may have been uncomfortable when confronted with this question. One participant referenced graduate interns rather than herself when answering the question. Participants whose respective processes

diffused these responsibilities among several steps or among different people responded to my question with procedural elements. Zane Jefferson shared the following:

On the informal side, again, our staff are just making a determination of is there enough to charge...The student does have to make the decision themselves (as to the resolution they choose to proceed with). Now, if the student elects not to engage, then our staff can technically find them responsible.

Grace Jones said this, using “we” instead of “I,”

I don’t have to do that [at my current institution], I am not the sole authority. The Dean does lean on my recommendation, we were the one in the hearing. We are the professionals... we are the experts... Rarely am I worried that it’s not going to be upheld because I rationalize why I made my decision.

When recalling her experience at a prior institution where she was positioned as the investigator and adjudicator, she felt the charge the student received was a “stretch;” the code of student conduct did not maintain flexible enough language to match the student behavior, so the closest charge was applied,

[When] we didn’t have a charge for something, I think those are the times that I found myself struggling [to issue] a finding of responsible or not responsible...those times feel icky, and we feel like it’s a stretch...we don’t have a preponderance, what is the bigger impact? If I find this student not responsible, what about the next time something like this comes along, you know? Where’s the equity?

She said with sarcasm, the experiences where charges fell somewhere in a gray area were days she woke up and felt “wow, this is so great. I love this part of my job.” Stacy Smith shared this sentiment, responding:

I don’t love it, to be honest with you. I also do Title IX for the university too. I am the lead investigator for students. My level of burnout is to a level in which I can’t really explain...it’s sometimes becoming hard to sleep at night, especially when things become pretty wild.

Matthew Williams shared this when asked how he felt about having sole authority over the investigation and adjudication through administrative resolution:

Oh yeah, [I think about it] all the time. It's a very, very big responsibility, right? It's easier to do over time... I was very bad at this when I first because I felt like I was getting students in trouble. I had to learn that they're in my office, in this meeting, because of something they did.

Having the ability to share the burden of decision making through collaborative peer discussion or supervisor support can serve as a “sounding board.” Discussing the case and calling upon a colleague to affirm the justifications the conduct administrator provides is helpful. Matthew Williams shared this:

I am very fortunate to work with two colleagues here that, if I am having some dissonance, I can talk to them... they can say, Matthew, this is what you've gotta do. Or, Matthew, I think you're right and that is the right direction to go...it's a big advantage to have somebody to do that with because if you don't, and all you have are mandatory minimums or a strict rubric, you don't have the ability to make the right call.

Collaboration is an integral value listed by the Department of Education (ED) website updates where they posted an interim statement (2021) on mitigating the harmful effects of implicit bias in K-12 school discipline; as of July 30, 2021, the 2014 guidance package remains under review (OCR joint letter, 2021). They list recommendations for the training and professional development of all school personnel which includes facilitated discussion of the school's discipline policies, naming specifically how to apply subjective criteria in making disciplinary decisions. They also emphasize communicating with and engaging stakeholders; for the purpose of K-12 education, these include families, students, school personnel, and community members. The collaborative, transparent, and communicative presence in K-12 discipline guidance are also values reflected in the experiences of postsecondary conduct administrators who participated in this study.

Spectrum of Resolution Options Integration. The evolution of university student conduct over the last four decades has seen major shifts in philosophy, function, and practice. The sophistication of process improvements expressed by some of the participants in this study best align with a contemporary, restorative model described by Schrage and Thompson's Spectrum of Resolution Options (2008). This study did not seek to identify how participants may have integrated these new practices into their work, however, the inclusion of these elements in the findings is significant because they reflect the emerging best practices published in the 2021 ASCA *Knowledge and Skills* competency matrix. Through participant interviews, I was able to group my participants easily into two categories which I am calling "old school" and "new school." This dichotomy reflects those who currently work for institutions who have integrated one or more elements of the spectrum model versus those who subscribe to more "traditional" conduct programs. The program model that guides their institutional policies and procedures has a great influence over how they experience administrative resolution, particularly if dissonance exists between their individual DEI competencies and the structural limitations of their department.

I asked participants to consider cases when they used professional discretion over a matrix or common sanctioning guide; loosely, the participants again shared the sentiment that "it depends." Participants who did have sanctioning guides also used department precedent to issue sanctions that were the same or near sanctions that they had given to other students who had violated similar policies. All participants in this study had mandatory minimum sanctions for alcohol and other drug offenses which they described they rarely deviated from. The term "script" was interpreted and applied differently among participants. For those in the "new

school” group, an official “script” was used to ensure all procedural points were included in discussions with the student with a primary purpose of mitigating legal liability. Those who did not use a script for administrative resolution had a routine they followed during student meetings. All participants valued developing a rapport with the student during one-on-one discussion.

Reflection and Intention. When asked directly if they had insight into their biases and if they had considered the impact of their biases in the work they do as university conduct administrators, all 11 participants felt that they did. When asked if they collected and audited their personal case data for the explicit purpose of identifying disparate trends, only four participants said yes (Mary Jane, Zane Jefferson, Grace Jones, and Marcus Nestor). Three of these (Mary Jane, Zane Jefferson, and Marcus Nestor) said their choice to audit their own data influenced the expectations around auditing discipline data for the department or institution. Participants Stacy Smith, Clyde Miller, Matthew Williams, and Gunther Haas had never audited their own case data and had never been asked by their institution to do so. Kevin Grover and Ben Malloy had experienced a single data audit to satisfy a state or institutional request. Kevin Grover’s institution later implemented the practice as a result. Charlie Coleman and Marcus Nestor identified anecdotal instances of disparate reporting and initiated investigations to determine why this was happening. Although all participants expressed value in equitable, fair, and consistent practices, only four participants represented institutions who intentionally audited data to substantiate this. This study did not seek to identify and measure the disparities that existed among participant data; however, three of the participants shared that disparate trends in data were identified because of data audits.

A final barrier to equity in the administrative resolution of university student conduct is institutional leadership. Several participants expressed feelings of deep disappointment, frustration, and in one case disgust, when a person in a position of authority superseded their recommendations for a case which countered institutional precedent or was not in the best interest of the student. Two of the three examples were direct intervention of a college president. Marcus Nestor described a situation with a student who was also a military veteran who had come to the attention of the institution's conduct office and Behavioral Intervention Team for continuous inappropriate outbursts toward faculty. The college president, also a military veteran, circumvented the recommendations of the conduct office, Behavioral Intervention Team, and faculty policies outlined in the syllabi to require special accommodations be made for the student to ensure his graduation. Marcus expressed a feeling of betrayal and frustration. Grace Jones shared an experience where an unnecessary escalation by campus police and university housing staff resulted in the criminal trespass and removal of a marginalized student from housing. Grace Jones felt so disturbed by the outcome of the case she used a "sick day" to recover the emotional toll she felt. These examples recognize how the biases of others, not those of the adjudicator, may creep into a conduct program through those who may hold authority over a conduct administrator. This interference, although appropriate in order of command, undermines the judicial process and violates the duties of the conduct office to uphold the highest standard of equity and accountability on campus.

### Chapter Summary

I offer the findings of this study as objects for readers to hold and examine with curiosity; not as absolute truths, but as candid reflections of the experiences shared by participants. There remain implications and findings not yet known; these will stem from others who will generate their own meaning from this study. Herein lies the magic of interpretive phenomenology: the value comes not from the presentation of findings; rather, significance comes from the fusion of understanding among people. I hope the consideration and application of my interpretation against your own will generate new insights, questions, and implications. You may glean from obvious insights that arise to the surface; the method also invites you to revisit the remaining pool of insight with your phenomenological snorkel; observing more deeply what remains beneath.

In summary, the following themes were extracted from participant data through two phases of analysis using the hermeneutic circle. Referencing my own pre-understanding, phase one included the explication of individual and group constructs by reading participant transcripts, listening to participant interviews, and compiling initial themes brought forth by my interpretation into an excel file. Each participant was invited to view their raw participant data (recorded interview and transcript) and individual excel file which contained my initial themes and researcher notes. Participants were asked to review their respective files for clarification of meaning and to offer any additional insights they may have generated. Phase two analysis involved printing the excel files with participant insight, researcher notes, and initial themes; I then spent a period of six weeks “dwelling in the data;” using highlighters, handwritten notes, and memoing, I refined the initial themes to a series of final themes which I organized and used

to regenerate hermeneutic statements. This chapter offered three hermeneutic statements as findings, supported by the final themes generated through my interpretations and pre-understanding. For ease of reference, I have provided them again below:

#### Statement One

The issues of consistency, bias, and equity regarding administrative resolution of university student conduct adjudication are of concern to university conduct administrators. Supporting themes include pre-understanding and study value.

#### Statement Two

University conduct administrators experience administrative resolution differently; institutional policy and procedure, available resources, individual experiences, and students may contribute to this variance. Administrative resolution as a pathway to resolve university student conduct is interpreted and applied differently from institution to institution. Supporting themes include the Institution, available resources, personal and professional experiences, and the student.

#### Statement Three

University conduct administrators have insight into their own biases and appreciate the value of equity; currently, they are unlikely to be substantiating this sentiment with consistent and objective review of case data. University conduct administrators have resources to “do the work;” however, resources and support to integrate emerging best practices remain a barrier to move “beyond the work.” Supporting themes include collaboration, Spectrum of Resolution Options integration, reflection, and intention.

Brain Break

The explication of meaning from lived experiences offers new dimensions to view what otherwise might be described as mundane minutia. It can also make accessible the experience of phenomena not experienced; to extend beyond the life you have lived to experience extraordinary moments lived by others.

- A. Choose a participant quote that stood out to you; examine the words, visualize the participant and researcher in discussion. Imagine what sentence may have been said before the chosen quote and what may have been shared after. Read the quote within the paragraph it was placed. Identify another section where the quotation *could have* been placed. Name any new insights you have.
- B. Select a hermeneutic statement of findings (there are three listed at the beginning of this chapter). How do the findings apply in the work you do? What questions do they generate for you? Can you extrapolate beyond a statement with your own understanding?

## CHAPTER FIVE

## DISCUSSION AND CONCLUSION

Study Overview

This original research was conducted for the purpose of the dissertation requirement of my doctoral degree. The project was completed over the course of two years by a single researcher, under the supervision of a doctoral committee located at Montana State University. My unique positionality as both a student affairs professional and emerging researcher fostered reflexivity and consciousness to critically examine the responsibilities I held as a university conduct administrator. The purpose of this study was to understand how university conduct administrators experience administrative resolution; a potentially problematic resolution pathway commonly applied in the adjudication of university student misconduct. My inspiration for this study was the 2014 Department of Education (ED) report and guidance package regarding disparate discipline practices discovered within K-12 CRDC data. I sought to understand differences in civil rights reporting requirements for public postsecondary institutions and public K-12 LEAs, and how the findings from the 2014 ED report may relate to postsecondary conduct. The findings of this study affirm my pre-understanding of the phenomenon and problem of practice and offer substantive implications for research and practice. This chapter includes a discussion of findings as they relate to each research question. I revisit assumptions located in chapter one and offer limitations for the study's findings. The chapter concludes with contributions to the literature, implications for practice and research, and my final conclusions.

I carefully considered my positionality and “situatedness” to the topic while designing this study. This is reflected in my choice to apply interpretive phenomenological methods, using elements from both Heidegger and Gadamer, to create data collection and analysis protocols which honored the interpretive lens of participants and researcher. Using the Association of Student Conduct Administration (ASCA) membership list, 11 university conduct administrators participated in individual, semi-structured virtual interviews. I utilized the hermeneutic circle, a cyclical process of data collection and analysis, member checking, and “dwelling in the data” to explicate meaning from participant experiences with adjudicating university student conduct through administrative resolution. By revisiting my pre-understanding of the topic, I was able to move between individual experiences and larger themes that emerged from the aggregate participant data; “dwelling in the data” in the pursuit of a negotiated understanding of what it “feels like” to resolve university student conduct informally. I am privileged to share the experiences of my participants and encourage readers to apply a curious and inquisitive perspective when considering the findings; in the spirit of interpretive phenomenology, I hope for you this paper generates deep thinking and many more questions as you develop your own curiosity about the topic.

### Summary of Key Findings

This section includes a summary of key findings organized by the research questions they serve to answer. Two phases of hermeneutic analysis resulted in a series of final themes. These themes and respective raw data files were shared with each individual participant for review. I reconstructed the final themes into three hermeneutic statements which were presented in chapter four. The findings are paired below to support the research question they speak to. There are no

absolute findings generated from interpretive phenomenological research; rather, distilled contextual data to prompt further hermeneutical inquiry. I nested the findings beneath the guiding research questions as a structural decision. The reader may benefit in the development of their own understanding by visually pairing the research question with study findings.

1) How do University Conduct Administrators experience administrative resolution?

Individual experiences with administrative resolution vary among university conduct administrators; four factors identified as influential in this study are 1) respective institutional policies and procedures, 2) department resources, 3) personal and professional experiences, and 4) the student(s) whose case(s) they are managing. The process in question, administrative resolution, can easily be described by professional conduct administrators; however, the nuances of how they experience the phenomenon are more challenging to capture. The experience of administrative resolution is highly subjective among the participants included in this study, further qualifying my decision to conduct the study using qualitative methods.

a. How might the personal experiences of University Conduct Administrators influence administrative resolution?

The formative experiences, values, and personal disposition of university administrators may influence the philosophies that guide their approach to administrative resolution. The breadth of this sentiment varied greatly among participants, ranging from zero acknowledgement of personal experience having any influence on their work to a contrasting perspective that it is impossible/inhuman to remove the influence of their personal experiences from any facet of the work they do. I cannot know the level of truthfulness shared by each participant; I can convey

my perception that each participant was honest and forthright when discussing this topic with me. Their personal experiences, values, and dispositions may have a lesser impact on the finding, outcome, or status issued to a student; however, my findings suggest the personal experiences of university conduct administrators may likely impact the discretion they apply in the issuance of punitive sanctions over support resources and vice versa. Participants shared details from their own college experiences, relationship challenges, drug or other alcohol use, and personal family dynamics during their interviews. They felt empathy and connectedness to the shared circumstances of students in some of the cases they adjudicated. Further research is needed to better understand how these personal experiences directly impact case outcomes.

- b. How might the professional experiences of University Conduct Administrators influence administrative resolution?

The findings in this study suggest several factors may influence how the professional experiences of university conduct administrators' impact administrative resolution. Institutional policies and procedures, department resources, number of years in the profession, and case quantity and type contribute to a sense of evolution of practice among participants. Nine of 11 participants articulated a process of natural maturation and wisdom gained through years in the profession; when applying this to administrative resolution, the participants articulated that they noticed a difference in their ability to listen to understand, remain unemotional or unaffected during adjudication, and act as a facilitator for student self-reflection rather than a punitive authority. This might suggest that new professionals in student conduct may be less measured in their approach, further demonstrating a need for observation and demonstrated competency hours for university conduct administrators. All participants suggested access to sufficient

departmental resources served to protect or inhibit their ability to ensure equity in their programs. Participants with access to institutional funding and support for adequate staffing were better situated to proactively address equity issues than those who did not feel sufficiently supported; I reference this group in chapter four as the "new school" participants, or participants whose respective conduct programs had implemented more of the Spectrum of Resolution Options (Schrage & Thompson, 2008) than those grouped as the "old school" participants. Understaffed and/or underfunded offices remained limited to "old school" conduct practices which relied heavily on a single adjudicator to process high volumes of cases. Further research is necessary to determine an appropriate budget or staffing model which could be applied to university conduct programs to make necessary upgrades.

- 2) How do University Conduct Administrators navigate professional discretion and case context during administrative resolution?

Subjective in nature, participants suggested they apply professional discretion differently for different cases. Those conduct administrators who belonged to "new school" programs had tiered staffing within their offices and processes to truncate decision making among several people. "New school" administrators had less adjudicatory discretion over the case finding as their process determined that the student's accountability would determine the case outcome. "Old school" administrative processes maintained a single meeting with a single adjudicator to weigh findings, outcome, and sanctions after the conclusion of the student meeting. Although literature in the field provides a definition for administrative resolution, it is unclear how consistent the definition is or how it manifests as procedure at individual institutions. All participants considered the burden of sanctions to the student, particularly if the student had

limited financial resources or the sanction would result in undue burden such as homelessness when applying discretion to sanctions through administrative resolution. Professional discretion was not applied directly to the findings, outcomes, or status change for a case; further quantitative exploration is necessary to substantiate this claim.

- 3) What insight do University Conduct Administrators have regarding their own implicit biases?

When asked directly if they had insight into their own biases, all university administrators participating in this study stated they did. They also unanimously stated they had considered their biases in their role as a conduct adjudicator. Most participants had never evaluated their own case data for the presence of self-identified biases and had never disaggregated their case data to evaluate disparate trends or patterns of any kind. It is unclear whether participants interpreted the term “biases” to be overt biases conscious to them or the presence and potential impact of unconscious biases. There is no way to substantiate the presence of an unconscious bias through reflection alone as a person cannot be consciously aware of something unavailable to their conscious.

### Revisiting Study Assumptions

The methodology for this study is deeply rooted within the philosophical assumptions and research paradigm that support it; the study maintains a social constructionist paradigm, further oriented by the relativist ontology, subjective epistemology, and values laden axiology. The biases and experiences of the participants are the essence of the object or phenomenon in question; my interpretation of their communicated experiences against my own pre-

understanding resulted in the findings presented in chapter four. The study did not attempt to examine the participants' perceived understanding of “administrative resolution” against the actual definitions held by their respective institutional policies. It is unknown how their interpretations of institutional policy and procedure influenced their contributions to this study.

It is also unknown how the participants' perceptions and understanding of ASCA guiding documents and/or federal law have influenced their contributions to this study. The study assumes that participants, being members of the ASCA and practitioners at public postsecondary institutions receiving Title IV funds are familiar with and adhere to the expectations for both. The study did not seek to examine or measure the knowledge competencies of participants in these areas; the nature of phenomenological inquiry would suggest that their knowledge and experiences in these areas should directly reflect their understanding as the two cannot exist separately.

Over the course of this study, I have found the nature of interpretive phenomenology and the question of implicit bias within administrative resolution to be highly compatible; a serendipitous discovery I did not fully understand until the final phases of my analysis. At the beginning stages of research design, my perception of the methodological fit for the phenomenon of administrative resolution of university student conduct was done so to align my intimate knowledge of this topic with a method that welcomed my position as a participant-researcher. As the analysis progressed, I developed an appreciation for a synergy created while using Gadamer and Heidegger's hermeneutic circle; an orientation of expansiveness which can only be accomplished through deep, philosophical thinking.

One article in particular, Brian Leiter's *Heidegger and the Theory of Adjudication* (1996) offers a rich philosophical debate of traditional Anglo-Saxon legal, moral, and logical theory against the subjectivity required of adjudicatory decision making. When I applied this article to the assumptions I maintain, and those held by my participants in our roles as university conduct administrators, the implications for interpretive phenomenology and debiasing research became clear. The application of hermeneutic inquiry to the adjudicatory roles of university student conduct administrators allows for deeper thinking about how the people within these roles make the decisions they do in relationship to time, space, and context. From a Heideggerian perspective, conduct administrators unequivocally cannot bracket themselves from their adjudicatory roles. The nature of implicit bias as explained through psycho-social, cognitive-psych and other disciplines support this claim; biases cannot be removed from the unconscious mind and are pervasive in our daily interactions.

I am intrigued by the deep connection between the science of implicit bias, interpretive phenomenology, and the adjudicatory process and intend on continuing my own examination of the relationship between these things at the conclusion of my doctoral degree. Interpretive phenomenology could be a very useful tool for future debiasing research because it allows for deep critical examination, reciprocal inquiry, and negotiation for the pursuit of the big "T" Truth. The hermeneutic circle could be an effective functional tool to contribute to discussion of bias among student affairs practitioners; it could also be very useful for the examination of written policy and procedure in the field of university student conduct. This method applied to my work in student affairs provides me with continual opportunities to reflect on my own practice and perspectives which is a priority of mine as a self-professed life-long learner.

### Limitations of Findings

Beyond the anticipated limitations of interpretive phenomenology, the study findings are limited to the experiences and contributions of the participants involved. The findings do not represent an absolute representation of truth; rather, they offer a snapshot of the experiences of the participants and researcher. These serve to prompt further curiosity and deep thinking among readers and those within the field of university conduct.

I began drafting my dissertation proposal in January of 2020. From 2019-2021, a presidential taskforce within the Association of Student Conduct Administration (ASCA) assembled to investigate and compile competencies within the profession; their findings were published in the associations March 2021 release of the *Knowledge and Skills* matrix. Study participants were recruited in fall 2022, roughly one and a half years after the matrix became available. The context of publication for the ASCA matrix is crucial to evaluating the limitations of this study; it demonstrates how emergent this literature is for practitioners. I was unsure of how the release of the matrix and competencies would impact my study; I chose to continue with my original research design but adjusted the interview protocol to better reflect language used in the matrix.

It is unclear how the release of the *Knowledge and Skills* influenced the participants in my study; at no time did I ask participants to examine their experiences with administrative resolution against the competencies listed in the matrix. If I had been aware of this emerging literature, I would have been more thoughtful to design a pre and postvention study using the ASCA *Knowledge and Skills* matrix. It is unclear to me how many of my participants, if any, are aware of the 2021 matrix and/or if they have applied this to their work in conduct adjudication. I

am very curious to revisit the topic of my study from a new perspective either 1) seeking to measure the impact of the competency matrix as an intervention tool and/or 2) examining longitudinal improvements within the field for the diversity and intentional inclusion competencies.

The emergence of the COVID-19 pandemic also presents a unique variable to consider when interpreting the findings and limitations of this study. The pandemic undoubtedly influenced all areas of social life and community expectations on campus. Institutions of higher education, among other public entities, were compelled by the authority vested in local public health agencies to require and enforce strict public health safety measures. This tremendous invasion of federal and state authority superseded the community standards maintained by colleges and universities, requiring unprecedented adjustments to campus policy and protocol. The jarring rearrangement of expectations and social norms on and off campus resulted in catastrophic derailment of systems ill-equipped to easily adapt. For university student conduct, the sheer influx of new COVID-19 specific policies and subsequent violations was nothing short of crushing. The “drive-through” conduct resolution pathway, administrative resolution, was arguably the most pragmatic solution for managing the extraordinarily high volume of new COVID-19 policy violations.

One limitation of this study is the timing post COVID-19. It is unclear what lingering impacts the COVID-19 pandemic has had on the daily operation of university conduct offices. Participants clearly articulated in this study the integration of video conferencing for administrative resolution, a technology traditionally reserved for the most formal student conduct hearings. The implications for the integration of virtual or hybrid conduct meetings as standard

practice aligns with the student-centered values emerging from the Pathways Model (Schrage & Thompson, 2008). The impact of technology on the findings for this study is unclear. The impact COVID-19 had on the experiences of conduct administrators adjudicating conduct through administrative resolution is also unclear. There are several implications for future research regarding COVID-19 and university conduct adjudication; however, these are not applicable to research implications presented below resulting from the findings of this study.

### Contributions to the Literature

This study contributes to two areas of literature, 1) university conduct adjudication and 2) the science of implicit bias. University conduct literature names the presence and impact individual implicit bias in the adjudication of student conduct; beyond doctoral dissertations, I was only able to find one study attempting to measure for the presence and impact of university conduct administrator bias on case outcomes (Starcke & Porter, 2019). When compared to K-12 literature quantifying disparate discipline practices, postsecondary research is grossly underrepresented. This study attempts to fill the gap postsecondary literature by scaffolding upon the implications for future research included in the Starcke & Porter study (2019). This study also contributes to the large, multidisciplinary investigation of implicit bias. Although phenomenological methods have been applied to implicit bias research, the literature does not include a phenomenological study examining bias and university conduct adjudication.

### University Conduct Adjudication

This study contributes to university student conduct literature by elevating the discussion of equity and conduct adjudicator bias within administrative resolution. The study attempts to fill

a large gap in higher education literature around disparate discipline practices among postsecondary institutions as compared to literature examining a similar sentiment among K-12 schools. The values of diversity, equity, and intentional inclusion are well documented within student affairs and student conduct literature. The gaps in literature remain around measuring the impact of these values on inter and intra institutional practice. This study provides a platform for practitioners to further examine their own biases as they relate to their role in student conduct; it also addresses equity within one commonly applied resolution pathway, administrative resolution. The study specifically addresses implications for future research presented in Starcke & Porter's recommendation to further examine *why* conduct administrators make the decisions they do (2019) with research question two, "how do university conduct administrators navigate professional discretion and case context during administrative resolution." Findings suggest conduct administrators apply discretion differently than others do, and differently for each case. There may be difference in the way "old school" and "new school" programs (those who have adopted some or all contemporary practices outlined in the 2008 Spectrum Model) facilitate administrator discretion. These findings are more likely to apply to a conduct administrator's determination of sanctions for a case rather than impacting the case finding or outcome.

The results of this study will be presented at the annual ASCA conference; this event is typically held in February. There are several working groups and knowledge communities within higher education; it is my intention to deconstruct elements of this dissertation for publication across different academic journals. In the spirit of phenomenological inquiry, the findings of this study should continue to inspire further critical thinking for myself, my participants, and my colleagues which can generate future insight and discussion. I hope the implications for future

research and practice can be utilized by other researchers and peers to continue to improve individual and institutional practice. Perhaps the research design for this study could be repeated to construct a similar phenomenological study in the future.

### The Science of Implicit Bias

Phenomenological methods have been applied in other dissertations exploring bias in education (Miller, 2019; Yeung, 2022); emerging methodological implications for debiasing research (Smith, 2020) use metaphors and constructed narratives to facilitate deep thinking within educational philosophy. The contribution of this study to the greater, multidisciplinary body of academic literature examining implicit bias lies within intersection of educational law and policy, implicit bias, and university conduct adjudication. To my knowledge, there are no studies merging the topic of disparate conduct adjudication at the postsecondary level with phenomenological methods. The application of the method the better understand the experiences of adjudicators may be applied to foster deep thinking about how the nuances of human experience are connected to implicit bias. This can be applied directly to the investigation of implicit bias in many fields including legal scholarship, ethical and moral development theory, student development theory, cognitive psychology, workforce supervision, and even parenting.

### Implications for Future Research

#### University Conduct Adjudication

It is clear to me as a researcher and practitioner the next logical step emerging from this study is to conduct a large, cross-institutional review of university conduct programs. Topics for exploration include a comprehensive document analysis of conduct policies and procedures to

determine how the Spectrum of Resolution Options (Schrage & Thompson, 2008) and the 2021 ASCA *Knowledge and Skills* matrix have been implemented across the profession. Examining conduct administrators' knowledge competencies and understanding of administrative resolution could identify how this resolution is understood within the profession and practiced. Future research within the field of conduct adjudication should include institutional review of case data for disparate trends; this research should attempt to compile an aggregate of cross-institutional data to objectively determine if disparities exist across the profession.

Another implication for research is examining more deeply the experiences and perceptions of conduct administrators when confronted with their own case data. My study suggests the practice of collecting and reviewing case data for the explicit purpose of identifying disparate trends is wishful thinking. Future research is needed to determine if individuals and institutions are collecting this data, reviewing, and applying their findings to the improvement of policy and procedure. Because there is not a single depository for this data, it is incumbent upon university administrators to collect and analyze discipline data disaggregated by, at minimum, protected status. See implications for practice to consider the use of the CRDC or other opt-in database as it relates to postsecondary conduct programs.

Areas for future research also include resource analysis for individual institutions and across the profession. This study suggests limited staff and financial resources remain barriers for conduct administrators to move beyond traditional "formal" pathways and to integrate more fully a spectrum of resolution options. Future research should focus on determining a cost and timeline for integration of the Spectrum of Resolution Options; a case study or series of case studies examining different institution types and sizes who have successfully integrated

alternative resolution options. By developing a cost prediction, conduct administrators can better advocate for appropriate staffing models and financial resources necessary to upgrade their current resolution options.

I am particularly interested in examining the impact that COVID-19 may have had on administrative resolution of university student conduct, both during the pandemic and post-pandemic. The informal nature of low-level policy violations such as mask infractions and/or violating social distancing must have predominantly been adjudicated through administrative resolution; the volume of cases to adjudicate on each campus, particularly from residence halls and other high density housing units on campus, surely would have stressed alternative resolution options in such a way that they became obsolete. Future research should focus on the adjudication and resolution of COVID-19 related policy violations on campus, the impact of COVID-19 on administrative practices within university conduct, and attitudes and perceptions and practices of administrative resolution held by university conduct administrator's post-pandemic.

#### Implications for Practice

As a practitioner motivated by improving equity and access to public education for all students, I believe the implications for practice outweigh the implications for research. I offer the implications for practice in three functional areas: 1) elevating required credentials for university conduct administrators 2) exploring an aggregate database for university conduct discipline data and 3) Applications for the CRDC: guidance and limitations of the Department of Education for university student conduct.

### Elevating Credentials for Conduct Administrators

Over the course of my ten-year career (and counting) in student affairs, I have seen great investments in language and guidance for diversity, equity, and inclusion from professional associations that guide student affairs. Still, our profession as conduct administrators requires zero demonstrated competency hours or even supervised observation hours. There are currently no specialized graduate degree programs designed to prepare a student affairs practitioner for the responsibilities of a Dean of Students, Director of Student Conduct, or Conduct Administrator and no standardized qualifying exam for professionals to demonstrate critical knowledge competencies. The ASCA Ghering Academy (Association for Student Conduct Administration Donald G. Gehring Academy, n.d.) is a high quality, substantive training opportunity for university conduct professionals to gain skills and knowledge about the field, however, the five-day training curriculum is not designed to develop and test for competency. The State University of New York Student Conduct Institute (SUNY SCI) also provides a quality training curriculum for student conduct professionals; they provide the following formal caveat at the bottom of their webpage:

Disclaimer: SCI does not certify any institution as compliant and disclaims any liability for any perceived or actual shortcomings in the text of the training or an institution's utilization of the information presented in such training. Per the Department of Education's (ED) 2015 and 2020 letters and posts, no training offered by anyone is officially certified by ED and any organization that makes such a claim is making a false claim. The SCI does certify individuals' completion of the SCI program, which national experts and reviewers believe meets and exceeds training requirements. SCI does not claim to have the approval of ED as ED does not offer such an approval (The State of New York Student Conduct Institute, n.d.).

I am not suggesting the ASCA Ghering Academy or the SUNY training curriculum for student conduct administrators are not highly effective, useful tools for the education and preparation for

conduct administrators. I am bringing to attention the variance among training and qualifications for conduct administrators and lack of standard professional credential that recognizes the sophistication of the role. Findings of this study highlight the inconsistencies among conduct professional roles and titles; these are designed to meet the needs of their respective institution and often result in an amalgamation of job duties and responsibilities. The variance among duties, titles, and qualifications within the profession perpetuates confusion about the function of our roles. This is highly relevant to student's perceptions of the function of the administrative resolution pathway. Further research is necessary to capture the wide array of credentials held by university conduct administrators. Future research comparing the state and federal definitions, credentials, exams, and licensures required of educators, principals, and superintendents who serve in K-12 compulsory education and the credentials required of postsecondary administrators is necessary to explicate further implications.

#### Opt-in Aggregate Database for University Discipline Data

While discussing my initial findings with Dean of Students, Dr. Matt Caires (committee member and mentor of mine) suggested examining the National Fraternity and Sorority Scorecard as an aggregate database which could be used to describe the opt-in, participatory program recognized by the ED. The National Fraternity and Sorority Scorecard program is endorsed by the National Center for Safe and Supportive Learning Environments; funded by the Office of Safe and Supportive Schools under the Department of Education. The center compiled and published a *School Discipline Laws and Regulations Compendium* (2022) outlining current state-level laws and applicable regulations for public schools; the document addresses

postsecondary regulations as mentioned in their corresponding state laws. This document was not included in the review of literature as I discovered the resource while drafting chapter five.

The National Fraternity and Sorority Scorecard program was created and maintained by the Piazza Center for Fraternity and Sorority Research and Reform located at Penn State University. The program is free to participate in and is funded by Penn State donors (Penn State Student Affairs National Scorecard, n.d.). The self-disclosing program provides a platform for colleges and universities to deposit key indicators regarding their fraternity and sorority life chapters which can be used in measure against other institutional chapters. The aggregate data is published by the Piazza Center; data is collected using the Qualtrics platform via link on the Piazza Center website.

This potentially low-stakes, low-cost aggregate database is an ideal comparative program for the collection and publication of aggregate conduct data collected by colleges and universities. The external motivation to appear successful against peer institutions regarding equitable and transparent conduct practices could generate momentum and external motivation necessary for institutional and systemic change. At this time, my recommendation would be for this project to be initiated by a team of practitioners under the support of NASPA, ASCA, ACPA, CAS, or other professional student affairs associations. Currently, the resources addressed by the National Center for Safe and Supportive Learning Environments only offers literature for postsecondary institutions around alcohol and other drugs, collegiate recovery programs, hazing prevention, and health promotion. Although the Fraternity and Sorority Scorecard program is not formally endorsed by the ED, the acceptance of this program under its

contractual partnership through the Office of Safe and Supportive Schools demonstrates creative and powerful potential for a similar application for public postsecondary institutions.

### Conclusion

This study brings to discussion some of the difference between civil rights data reporting for public local educational agencies (LEAs) and postsecondary institutions in the United States. The function of discipline programs for these two institutions are, and should remain, different. It is in the best interest of university conduct administrators to increase their knowledge in this area; the pending transition to free two-year college will undoubtedly influence the contractual relationship postsecondary legal president current rests on. This will likely result in a shift in expectations for data collection and reporting to the OCR under the ED. The integration of alternative resolution pathways and application of emerging knowledge competencies for student conduct administrators become stagnant when institutions do not proactively invest resources toward improving conduct programs.

The use of interpretive, or hermeneutic, phenomenological methods to gain understanding about administrative resolution from the perspective of the conduct administrator was a fruitful design choice. As a practitioner, I was pleased and not surprised at the number of willing participants who responded to the recruitment email; many doing so only because they felt the topic of the study was so valuable to their work as conduct administrators. The nuanced phenomenon of adjudicating alleged university student misconduct is an area underrepresented in the literature. The findings represent the perspectives and experiences of the eleven participants and myself; our pursuit together to better understand this experience offers findings which can be used to elevate this problem of practice to the consciousness of my peers. I am

grateful to the participants who generously shared their stories with me; I hope I was able to capture the essence of their experiences as thoughtfully as they did through our interview time together.

There remain many variables for individual conduct administrators to consider when evaluating their own practice of administrative resolution. I encourage those leaders responsible for university conduct policy and procedure to evaluate the function of administrative resolution; when and how it is appropriate to apply, how conduct staff are trained in this adjudication pathway, and what mechanisms they are empowered with to evaluate their own data for disparate trends. A very delicate balance exists between consistency and impractical standardization, inequity and adjusting to meet the needs of a particular student. I offer this study not as a condemnation of our field or of administrative pathways; rather, an opportunity for poignant discussion about our responsibility as a profession to “up our game” as equity advocates.

It is not acceptable to leverage diversity, equity, and inclusion initiatives as token values or to rely upon the individual DEI competencies of individual educators and administrators. The time is now to fiercely advocate for resources that allow us to make systemic, sustainable changes in our postsecondary conduct programs and establish the highest standards for equity and inclusion on our respective campuses. The authority entrusted to us by our campus communities requires elevated intention and care to ensure our conduct programs surpass the current standards required of us by the ED.

#### Closing Brain Break

1. Review your notes, insights, and questions generated in previous “Brain Breaks.”

How has your pre-understanding of the study topic changed?

2. Experiment with your new understanding of the topic, how might your understanding continue to change? What insights do you now have that may influence your daily life, and how?
3. Recognize your insights as they relate to you in time and space; open your mind to allowing these insights to continue to develop as you encounter the study topic in the future.
4. Thank you for engaging and participating as a new, participant researcher. If you wish to share your insights with me or engage in further discussion, I welcome you to email me directly at [emily.busby01@gmail.com](mailto:emily.busby01@gmail.com).

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APPENDICES

APPENDIX A

IRB APPROVAL

MONTANA STATE UNIVERSITY  
Request for Designation of Research as Exempt from the  
Requirement of Institutional Review Board Review  
(2/1/2020)

\*\*\*\*\*  
THIS AREA IS FOR INSTITUTIONAL REVIEW BOARD USE ONLY. DO NOT WRITE IN THIS AREA.

8/17/22 Mark J. Quinn

\*\*\*\*\*

DATE: May 11, 2022  
I INVESTIGATOR(s):  
-okay as exempt  
-interviews about adjudication  
-little/no risk  
-no concerns  
MQ 8/17/22

Name: Emily A. Busby Schuff  
MSU Department: EHHD, Adult and Higher Ed.  
Telephone: 406-417-8228  
E-Mail Address: emily.busby01@gmail.com  
DATE TRAINING COMPLETED: Renewed on 5/11/2022  
Name of Faculty Sponsor (if above is a student; also must complete CITI training):  
Dr. Bryce Hughes, Dissertation Advisor

SIGNATURE (ADVISOR): Bryce Hughes

SIGNATURE (INVESTIGATOR): Emily A. Schuff

**Conflict of Interest Statement**

Do the investigator(s) or other researchers involved in research design, conduct, or reporting (and their family members) have an outside interest related to the research?

*An "interest" may include compensation such as salary, a payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship), an equity interest, management responsibilities, board membership, or related non-University intellectual property rights and interests (e.g., patents, copyrights).*

X NO

APPENDIX B

ASCA RESEARCH PROTOCOL






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[RESEARCHERS](#)

[Home](#) > [Membership](#) > [Researchers](#)

 Print This Page

## Researchers

Supporting the Association's commitment to advancing academic scholarship in the field of conduct administration, ASCA permits researchers to conduct both quantitative and qualitative studies of the Association's membership with proper approval. While preference is given to researchers who are current members of the Association, membership is not a requirement to submit a "Request to Study ASCA Membership Application."

### Typical Options for Studying ASCA Membership

#### *Quantitative Studies*

1. Web-based survey of the entire ASCA membership: If approved, the ASCA Central Office will contact the entire Association membership via e-mail with an invitation crafted by the researcher that contains a link to the actual study instrument hosted on-line by a provider such as SurveyMonkey. Generally, ASCA will permit no more than three total contacts per study to the entire membership via e-mail and the Association assumes no responsibility

for the memberships' willingness to participate. The invitation letters for all quantitative studies must designate that participation in the study is both voluntary and anonymous for all respondents.

2. Web-based survey of selected ASCA membership: If approved, the ASCA Central Office can perform a sort function on the Association's database to designate a specific membership e-mail list based on the researcher's request. The ASCA membership database can be sorted to permit a researcher to study only four-year institutions, only two year institutions, only institutions in the United States, or by geographic areas based on ASCA membership regions (<http://www.theasca.org/regions>). The database cannot be sorted by control (public/private) or campus enrollment level. Once the selected membership listserve is designed, the ASCA Central Office will send invitation e-mails directly to a specified group.

3. Address list: With the approval of the ASCA Research Committee and the ASCA Central Office, researchers can obtain a list of mailing addresses for ASCA membership. Even for research purposes, researchers are required to pay \$750 to obtain a copy of mailing addresses. Researchers requesting mailing addresses must still complete the "Request to Study ASCA Membership Application" below.

#### *Qualitative Studies*

1. Contact from Central Office seeking volunteers: Researchers seeking permission to conduct qualitative studies of ASCA membership may request no more than three e-mails be sent to the ASCA membership soliciting participation in a qualitative study. The email invitation must be crafted by the researcher and contain the contact information of the researcher for those members interested in participating. The researcher may instead request contact information for specific individuals or institutions represented in the Association's membership database. Requests can be made based on specific needs or for a random sample of individual members or institutions. The ASCA Central Office will supply with the contact information requested and, from that point, it is the researcher's responsibility to make contact and conduct the study.

2. Interviews or focus groups at ASCA Annual Conference: With approval from the ASCA Research Committee, researchers may receive permission to conduct qualitative studies of the Association's membership attending the Annual Conference. Researchers are expected to pay all expenses associated with their attendance at the annual conference. Based on the needs of the researcher, the Central Office can provide details to conference attendees and assist the researcher in scheduling room(s) for the interviews.

#### General Procedures

The ASCA Research Committee's permission to study the Association's membership is in no way an endorsement of the study or its merits. The Association takes no responsibility for the utilization of study results by individual researchers nor ownership of said data. Invitation letters sent to ASCA membership will not contain an indication that the study is from the Research Committee – researchers must sign their own name(s) or, in the interest of confidentiality, state "Anonymous Doctoral Student" or the like.

The ASCA Research Committee is judicious in their approval of requests to study the membership, based on the characteristics identified herein. The reason for limiting the number of quantitative studies is to assist researchers in gaining an adequate survey response rate by not overwhelming the Association's membership with study requests.

To submit a formal request, researchers should complete the "[Request to Study ASCA Membership Application](#)" and submit as a single PDF document to the ASCA Central Office at [asca@theasca.org](mailto:asca@theasca.org).

Decisions as to whether a request to study ASCA membership will be accepted or denied are made by the Chair or Co-Chairs of the [ASCA Research Committee](#) in consultation with other members of the Committee.

Determinations as to whether a study application will be accepted are guided by the following characteristics of the study: (a) advancement of ASCA's mission, (b) contribution to basic knowledge in the field of conduct administration, (c) potential to not compromise the ethics of ASCA members, (d) timeliness of the topic, and (d) appropriate use of research design. While not determinative, priority will be given to study requests submitted by current ASCA members and/or those researchers who indicated that they will pursue opportunities to share their results with the membership via presentation at the annual conference, Reflections ASCA Educational Magazine article, ASCA blog post or ASCA Viewpoints podcast episode. Applications are reviewed one at a time on a rolling basis, and the ASCA Research Committee reserves the right to work with the researcher(s) of accepted study applications to determine an appropriate date for the initiation of the study. The acceptance of study requests depend on the committee's response to the abovementioned characteristics. Regardless of the committee's decision, researchers should expect to receive feedback from the committee. While the ASCA Research Committee will generally communicate with researchers who have submitted a study request within three weeks, that timeline may be extended as necessary.

Individuals whose study requests are denied by the ASCA Research Committee have three options. First, they may rework the application and resubmit. Second, they may contact the ASCA Central Office to request a mailing list of ASCA membership that they could use to initiate their own study without direct assistance from the Association. The ASCA Research Committee and Central Office must issue approval before the Association's mailing address list will be shared with a researcher and there is a cost of \$1,000 to obtain the list. Third, they may submit a grievance request to the ASCA Board of Directors Liaisons to the Research Committee. Specific information on filing a grievance request will be shared if a study request is denied.

### [Online Form: Request to Study ASCA Membership](#)

**ASCA Central Office**

PO Box 2237

College Station, TX 77841-2237

APPENDIX C

ASCA CONDITIONAL APPROVAL RUBRIC

**GRADING RUBRIC FOR PROPOSAL FOR REQUEST TO STUDY THE ASCA  
MEMBERSHIP**

<b>Abstract</b>	10 9 <u>8</u>	7 6 5 4	3 2 1 0
<ul style="list-style-type: none"> <li>Clearly identifies a problem of practice or underexplored phenomenon and justifies a need to study</li> <li>Topic is timely and of interest to the membership</li> <li>Abstract is clear and well-organized</li> </ul>	Meets all criteria at high level	Meets some criteria; uneven	Meets few criteria
<b>Population to be studied</b>	10 9 8	<u>7</u> 6 5 4	3 2 1 0
<ul style="list-style-type: none"> <li>Proposal is presented with enough detail to understand choice of author's research methodology</li> <li>Author describes the relevance and/or significance of selected population to the proposed study</li> </ul>	Meets all criteria at high level; clear and developed	Meets some criteria; uneven	Meets few criteria; often unclear or undeveloped
<b>Timeline for study invitations</b>	10 9 8	<u>7</u> 6 5 4	3 2 1 0
<ul style="list-style-type: none"> <li>Timeline is reasonable given the date of application</li> </ul>	Meets all criteria at high level	Meets some criteria	Meets few criteria
<b>Contribution to research literature</b>	10 <u>9</u> 8	7 6 5 4	3 2 1 0
<ul style="list-style-type: none"> <li>Demonstrates the potential to advance ASCA's mission to advance the student conduct profession</li> <li>Describes the study's benefit to the ASCA membership</li> <li>Addresses a research gap or duplicates existing study with potential to uncover new findings</li> </ul>	Meets all criteria at high level	Meets some criteria; uneven or has some lapses in clarity or development	Meets few criteria; often unclear or undeveloped
<b>Research protocol</b>	10 9 <u>8</u>	7 6 5 4	3 2 1 0
<ul style="list-style-type: none"> <li>Protocol follows general rules of ethical study of human subjects</li> <li>Promotes confidentiality and/or anonymity</li> <li>Describes consent process</li> <li>Identifies criteria for selection and non-selection of participants</li> <li>Describes process used to develop instruments and/or interview questions</li> </ul>	Meets all criteria at high level	Meets some criteria; uneven	Meets few criteria
<b>Overall effectiveness of proposal</b>	10 9 8	<u>7</u> 6 5 4	3 2 1 0
<ul style="list-style-type: none"> <li>Recruitment email clearly describes the focus of the study, target audience for participation, voluntary nature of study</li> <li>Thoughtful articulation of preparation, interest and ownership of project, investment and skills, and expected outcomes</li> </ul>	Meets all criteria at high level	Meets some criteria; uneven	Meets few criteria

**Comments for the researcher (does not affect scoring; will be shared anonymously and in summary with other comments):**

Reviewer 1:

- Would like to see the justification for selecting this population: public, ASCA members, mid-level, has residential facilities? What if someone has 3-7 years' experience but does not consider themselves to be mid-level?
- What is the shift in the timeline given ASCA has not yet approved?
- I am not clear on how this study will contribute to the literature on systemic prejudice in conduct as you are inviting participants to present their subjective perspective on their own biases. It's impossible to get an empirical measure of this data using this methodology.
- There is a more current version of *Reframing Campus Conflict* (2020, 2<sup>nd</sup> ed.) which has revised and updated commentary on the current climate in student conduct and conflict resolution.
- I'm concerned about the vocabulary in the invitation emails that clarify informal adjudication as an "administrative resolution." At many institutions, an admin resolution by a single conduct administrator is still considered formal. I would strongly suggest that you define this as you wish it to be used in your study. What I *think* you are interested in is how single adjudicators perceive that their biases impact their interactions with students. Does it matter, then, whether it is formal or informal? Because those terms mean different things to different people, a definition is needed to clarify who your target is.
- The interview protocol seems quite long for even an hour's meeting.

## Reviewer 2:

- A problem of practice applicable to ASCA members is clearly and concisely articulated.
- I am unclear on why your specific institution type was selected.
- I really appreciate the direct application of how your findings can directly benefit ASCA members and ASCA guiding documents.
- Good luck!

## Reviewer 3:

I think this is a rather solid proposal. My lower scores are a result of the timeline not being updated for when it was submitted (it has recruitment beginning in May, and it's late June), and I'm not sure why participation is being limited to only public institutions who are ASCA members – nothing in the interview protocol seems to suggest that ASCA membership is relevant to the study.

## Reviewer 4:

- I'm curious if there's a clearer definition for "informal adjudication" and how this definition incorporates restorative or agreed resolutions? Is this everything BUT panel or single decision-maker hearings? Does this include TIX cases that an institution might resolve w/o a hearing?
- I'm not really sure based on the material how you'll know if bias is playing out? It sounds like you're relying on interviews and I'm curious how that then helps answer your questions?
- You name race (Black and Latinx students) at the start but then it never seems to come up?
- How are you maintaining confidentiality if you're using a gmail account? Would it be safer/more secure to be using your institutional email?
- How do you define "mid-level conduct administrator"?
- The timeline appears to have been used for a different submission, since we're already well past the deadlines for starting data collection. Might be helpful to know what the adjustments will look like?
- Overall I think this is a really cool study. I think there's a few important pieces missing, including tighter data management and security for participants to feel confident their contributions are kept confidential.

**Total score:**

**48-60 – Issue an approval without reservation**

**35-47 – Issue a conditional approval**

**24-34 – Issue a revise and resubmit decision**

**0-23 – Deny the application**

**My total score: 45**

APPENDIX D

ASCA APPROVAL LETTER



Emily Busby <emily.busby01@gmail.com>

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## Schuff - Conditional Approval to Study the ASCA Membership

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ASCA Research <research@theasca.org>

Wed, Aug 31, 2022 at 4:13 PM

To: Emily Busby <emily.busby01@gmail.com>, karen.boyd@theasca.org, Central Office <asca@theasca.org>, Thommy McGowan <thommy@theasca.org>, angela@theasca.org

Dear Emily,

I am pleased to share on behalf of the Research Committee that your proposal and request to study the membership of ASCA has now been granted approval. I am CCing our Central Office staff for next steps.

Congratulations! We look forward to learning from you and supporting your research.

Valerie Glassman

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Valerie Glassman, Ed.D.  
ASCA Research Committee Chair  
[research@theasca.org](mailto:research@theasca.org)

On Thu, Aug 18, 2022 at 12:08 PM Emily Busby <emily.busby01@gmail.com> wrote:  
[Quoted text hidden]

APPENDIX E

PARTICIPANT RECRUITMENT EMAIL

Greetings,

My name is Emily Schuff, I am a doctoral candidate at Montana State University seeking participants for a phenomenological study exploring University Conduct Administrator's (UCA) experiences with informal adjudication. This original research is the foundation of my dissertation; the objective of the study is to gain insight into this common method of resolving alleged misconduct, explore the intersection of professional discretion and incident context, and create meaningful dialogue about equitable adjudication practices.

The study examines differences in data collection and reporting requirements for public K-12 and postsecondary institutions regarding discipline referrals and outcomes. Institutions of Higher Education maintain independent databases, use different criteria for findings and outcomes, and have different philosophies regarding punitive and educational measures. The Office of Civil Rights under the U.S. Department of Education has never conducted a cross-institutional assessment for disparate cases and has no mechanism to do so. The researcher has identified informal adjudication of university misconduct as a potentially problematic resolution option which positions students to be more vulnerable to the knowledge, skills, and disposition of the UCA managing their case.

**You are receiving this email because you may be interested in being a participant in this study.** Please consider participating if you meet the following criteria:

- Are currently working as a University Conduct Administrator.
- Your job duties include resolving alleged violations of university student misconduct *and* you practice informal adjudication (administrative resolution) as a method of case resolution.
- Your institution of employment is public *and* a current member institution of the ASCA

**If you are interested in participating, please email me directly at:**

[Emily.schuf@student.montana.edu](mailto:Emily.schuf@student.montana.edu).

As a participant, you will be asked to participate in two 60-90 minute virtual interviews with the researcher. Audio will be recorded and transcribed, no video or images of you will be collected. All de identifying information will be removed and you will be asked to create an alias to represent your contributions in the final dissertation.

The researcher will ask a series of semi-structured questions during interview one. The researcher will identify themes in the transcript and present these to the participant during interview two for further discussion and collaborative meaning making. The goal is co-constructed meaning making of the phenomenon in question.

Your participation in this research study is completely voluntary. You may refuse to answer any question or discontinue your involvement at any time without penalty. If you decide to participate in this study, your identity will remain completely confidential.

If you have questions about this study, please contact me at the information below. If you are unable to contact me or have concerns or complaints about the research study, please email the IRB Administrator at [kelly.beiswanger@montana.edu](mailto:kelly.beiswanger@montana.edu).

Thank you for considering contributing to this study,  
Sincerely, Emily Schuff

Primary Researcher:

Emily Anne Schuff

Doctoral Candidate, MSU

Adult and Higher Education

Email: [emily.busby01@gmail.com](mailto:emily.busby01@gmail.com)

Phone: (406) 417-8228

Dissertation Chair:

Dr. Bryce Hughes, Ph.D.

Assistant Professor

Education

Montana State University

Reid Hall 135

Email: [bryce.hughes@montana.edu](mailto:bryce.hughes@montana.edu)

Phone: (406) 994-6419

APPENDIX E

PARTICIPANT CONSENT FORM

**SUBJECT CONSENT FORM FOR PARTICIPATION IN HUMAN RESEARCH AT  
MONTANA STATE UNIVERSITY**

**Study Title:**

UNIVERSITY CONDUCT ADMINISTRATORS'  
EXPERIENCES WITH INFORMAL ADJUDICATION:  
A PHENOMENOLOGICAL STUDY

Description:

You are being asked to participate in a research study that explores how university conduct officer's experience informal adjudication of university student misconduct cases. The purpose of this phenomenological research study is to explore how University Conduct Administrators within the Association for University Conduct Administrators (ASCA) experience informal adjudication. This study will explore how Conduct Administrators navigate the relationship(s) of professional discretion, situational context of alleged incidents, and how this intersection might influence the outcome(s) of their work. Results of the study will be included in the researcher's published dissertation. The study will be presented at the annual ASCA conference in 2023.

Your career in university student conduct adjudication and your affiliation with the ASCA qualify you as a possible participant for this study. You should only participate in this study if you have professional experience with informal adjudication or administrative resolution of university misconduct cases.

Participation is voluntary:

Participation is voluntary and you can choose to not answer any questions you do not want to answer and/or you can stop at any time. Proceeding with the interview indicates your consent to participate. Participants may experience mild emotional discomfort or cognitive dissonance as a result of participating in this study. Participants may also enjoy and benefit from participating in this study as it provides an opportunity for self-reflection which may elicit positive insight and personal growth. There is no alternative method of participation should you decide not to participate in this study as it is written. This study requires no funding and thus, disclosure of a funding source is not applicable. Additionally, there is no cost to participants.

Procedure Detail:

The qualitative design of this research study fosters participant engagement and creativity. Participants will be asked to complete two 60-90 minute virtual interviews with a sole researcher. The researcher will use Microsoft Teams to conduct the virtual interviews; interview

one involves ten semi-structured interview questions. The researcher will record only interview audio (no video/images of participants will be collected) for the purpose of transcription, theming, and coding participant experiences. Initial themes will be provided to the participant during interview two for further discussion, clarification, and collaboration between the researcher and participant. The goal is to explore the participant's experience with informal adjudication and to co-construct meaning. The researcher will conduct a cross-case synthesis of all participants involved in the study. Final results of the study will be shared with participants prior to the public dissertation defense.

Confidentiality:

The researcher will consider all raw data collected from participants as confidential. All personally identifying information will be removed from the final product and replaced with an alias of the participant's choice to preserve anonymity. Raw data files including recorded audio files, transcriptions, researcher notes, emails and other contact information will be destroyed at the conclusion of the study. During the study, raw data files will be stored in a secure, password protected cloud provided by the researcher's home institution.

The results of the study will be included in the researcher's written dissertation and presented in a public dissertation defense. The dissertation will be published and publicly available through *ProQuest Dissertations and Thesis Global*. If selected by the ASCA to present, results of the study will be presented at the ASCA annual conference.

AUTHORIZATION: I have read the above and understand the discomforts, inconveniences and risk of this study. I, \_\_\_\_\_ (*name of subject*), agree to participate in this research. I understand that I may later refuse to participate and that I may withdraw from the study at any time. I have received a copy of this consent form for my own records.

Signed: \_\_\_\_\_

Investigator: \_\_\_\_\_

Date: \_\_\_\_\_

APPENDIX G

INTERVIEW QUESTIONS AND PROTOCOL

### Interview Protocol

Individual participants will be scheduled for 60-90 minute virtual interviews with the researcher. Interviews will be conducted using audio and visual capabilities through Microsoft Teams, however, the use of a separate recording mechanism will be used to record only the interview audio for the purpose of transcribing.

After a brief orientation with the participant I will begin the audio recording. I will introduce myself as the researcher, read a brief pre-written purpose statement, and clarify terms.

#### **Purpose Statement:**

The purpose of this interview is to explore your experience with informal adjudication as a university conduct administrator. I, the sole researcher in this study, am going to ask you a series of questions. I may ask additional probing questions for clarification, there are no right or wrong answers! Our interview format is semi-structured, please feel free to ask questions and engage in discussion with me.

#### **Positionality:**

I am in the fifth year of my Ph.D. in Adult and Higher Education at an institution in the Rocky Mountain West. I have 10 years of professional experience in student affairs including university housing, conduct adjudication, Title IX investigations, Clery compliance, and Behavioral Intervention.

#### **Clarifying Terms:**

For the purpose of this study, informal adjudication, sometimes called an administrative agreement, refers to one on one discussion between the conduct administrator and student typically exploring the incident, discussing responsibility, and resulting in a finding with or without sanctions. I am not referring to formal adjudication, known as a formal hearing, hearing panel or hearing board. Informal adjudication also does not mean alternative dispute resolution or restorative resolution. Are there questions about the term informal adjudication before we proceed?

### Guiding Research Questions

1: How do University Conduct Administrators experience informal adjudication?

1a. How might their personal experiences influence outcomes?

1b. How might their professional experiences influence outcomes?

2. How do University Conduct Administrators navigate the relationship between their professional discretion and situational context during informal adjudication?

2a. What insight regarding their implicit biases do they have?

### Section 1: Descriptive Information

Researcher: Please share the following information with me to create your participant description. If you are not comfortable answering the question, please say “pass.”

- Name
- Chosen alias
- Institution type and size
- Current Job Title and years in current role
- Current and past level of sanctioning authority
- Total years adjudication conduct in any other role
- Highest degree completed and content area(s)
- Age
- Gender
- Any additional background information you feel is relevant

Participant will respond.

Researcher: Thank you for sharing.

### Section 2: Formal Interview

For the purpose of this interview, I will refer to “case” or “cases” all of which mean only 1:1 informal administrative resolution.

1. Describe your experience with informal adjudication:
  - What does your typical process look like from the time an incident occurs to the completion of sanctions?
  - What is the flow of a typical 1:1 administrative meeting?
  - Has your approach shifted with Experience, training, education (police cynicism).
  - Can you recall a time you adjusted your approach or process for a particular person or case? Were you pressured? How did this feel?

2. What does it feel like to have the sole authority to determine the findings, outcome, and sanctions for a case?
  - Have you ever considered this?
  - When do you use professional discretion and when do you use a sanctioning guide?
  - Can you recall a case you adjudicated you now wished had a different outcome? What emotions do you experience when I ask that?
  - Are there times you sanctioned a student too harshly or not harshly enough? How did you experience that 1:1 meeting?
  - Have you ever found yourself advocating for or against a student?
  - In counseling, the term countertransference is used to describe feelings or emotions that emerge toward a client, sometimes due to unresolved personal issues. Have you ever experienced this?
  - Have you ever had a visceral response during informal adjudication? Describe the emotions you experienced.
  
3. Can you describe the student or group of students who are most likely to be referred to your office for misconduct? How do you feel being asked that?
  - Who has high rates of recidivism?
  - How do you feel about being asked about this?
  - Can you describe the student or group of students who are least likely to be referred to your office for misconduct? How do you know this?
  - Tell me about a 1:1 meeting you felt the student was being honest? How did this impact your meeting? Case outcome and sanctions?
  - Tell me about a 1:1 meeting you felt the student was being dishonest? How did this impact your meeting? Case outcome and sanctions?

Researcher: That concludes the formal questions of this interview. Are there other experiences or descriptions of informal adjudication you would like to share that you feel are relevant to this study?

APPENDIX H

PARTICIPANT DESCRIPTION MICROSOFT FORM

# Participant Description

Please share the following information with me to create your participant description. If you are not comfortable answering a question or wish not to share, please skip the question.

All personally identifying information of the participant and your institution will be removed; you will have an opportunity to review your participant description before I complete my project to make any adjustments you would like made to ensure your anonymity.

## 1. First Initial. Last Name

This information is for the researcher only and will be used to match your descriptions to your interview.

Enter your answer

## 2. Chosen Alias

Please choose a generic first and last name as an alias. If you do not choose one, the researcher will create one for you. Please do not choose the name of a famous person or character (Oprah Winfrey or Mickey Mouse). An appropriate alias might be Jennifer Smith, John Doe, or Robert Gallegos, etc.

Enter your answer

## 3. Institution Type and Size

Please be as descriptive as possible, i.e. Research 1, Land Grant, HBCU, 18,000 students, Pack 12, etc. You can find further descriptions using the Carnegie Classifications: <https://carnegieclassifications.acenet.edu/lookup/lookup.php>. You may choose to include any description(s) you feel are meaningful without exposing your institution.

Enter your answer

4. Current Job Title

Enter your answer

5. Years in current Job

Enter your answer

6. Total years in University Student Conduct

Enter your answer

7. Highest degree completed (i.e. M.A. Adult and Postsecondary, Ed. Admin)

Enter your answer

8. Are you currently pursuing a degree? If so please describe the degree you are pursuing

Enter your answer

9. Age

Enter your answer

10. Gender

Enter your answer

11. Any additional personal characteristics or identities you feel are meaningful for your participant description; list as few or as many as you like.

i.e. parent status, ethnicity, marital status, religious affiliation, sexual orientation, first language, race, first generation college student, military service, etc.

Enter your answer

12. Is there anything else you would like me to know or include?

Enter your answer

You can print a copy of your answer after you submit

This content is created by the owner of the form. The data you submit will be sent to the form owner. Microsoft is not responsible for the privacy or security practices of its customers, including those of this form owner. Never give out your password.

APPENDIX I

BRAIN BREAK HANDOUT

### Brain Break Handout

The “Brain Breaks” included at the conclusion of each chapter are interactive opportunities for the reader to reflexively engage with the content of this dissertation. Dibley, Dickerson, Duffy, and Vandermause suggest “the value of hermeneutic work lies in the way it is received by others, the way in which the interpretation changes the audience” (2020, p.158). The “Brain Breaks” offer structure for readers as they “dwell within the data.” The amorphous nature of explicating human experience can be challenging to grasp, even for the most advanced philosophers.

I encourage you to participate in the designated “Brain Breaks” as you feel comfortable doing so. The sensitive exploration of implicit biases may result in cognitive dissonance and an uncomfortable emotive response. It may also promote feelings of enlightenment and curiosity that can serve to benefit readers by expanding their perspectives. Conduct Administrators may benefit by challenging their own pre-understanding and experiences with administrative resolution by engaging in the Brain Breaks individually, as a team or staff, or as an evaluation tool with a supervisor.

### Brain Break: Chapter One

Interpretive phenomenological methods encourage deep thinking and reflection through the research process. I invite you to join me in the following hermeneutic inquiry and/or continue to chapter two.

1. I hope you will take a moment to ground yourself and consider your own assumptions and pre-understanding before you continue. To do this, you may wish to take a few deep breaths to quiet your mind and calm your nervous system; this action is a powerful action which can prepare your mind and quiet your nervous system (Jerath, R., Edry, Barnes, & Jerath, V., 2006). When you’re ready, consider writing down a few initial ideas, opinions, or questions you have regarding implicit bias as a general topic.
2. If you are a university student conduct administrator, consider the operational definitions for informal and formal adjudication. You may wish to write your current understanding

of the procedures at your respective institution and reflect on misconduct cases you have resolved administratively.

### Brain Break: Chapter Two

1. Building upon your previous reflections from Brain Break number one, consider the content of this chapter. What questions do you now have regarding unconscious associations, hermeneutics, implicit biases, and/or neuropathways? What new insights have come to you? You may also wish to apply these insights by reflecting on a time you experienced a stressful situation at home or work.
2. What are your thoughts regarding differences between civil rights reporting requirements for K-12 institutions and postsecondary institutions? Consider what implications this may have that are not addressed by this chapter. What are the benefits to these differences? What are the disadvantages?
3. If you are a university conduct administrator, consider new insights or discoveries you have made as a result of reading this chapter. Consider your own formal education, professional preparation, and continued development in your role as an adjudicator. How did you come to develop your knowledge and skills as a conduct administrator?

### Brain Break: Chapter Three

1. Consider again Heraclitus' pre-Socratic pronouncement "no man can step in the same river twice, for it is not the same river and he is not the same man" (Heidegger & Fink, 1970). What do we gain from exploring our physical relationship to time and space? What is gained by his contemplation that cannot be reached simply watching a man walk back and forth across a river?
2. Hermeneutic phenomenology calls us to move beyond a dualistic consideration of subject and object; in Heraclitus' scenario, the object is the man, and the subject is his crossing of the river. Heidegger suggests that objects and subjects are of one being, their function

together becomes the “thing” worth examining. A phenomenologist would approach the scenario wondering what it feels like to step into a river for the first time, making meaning from the surprised, cautious, delighted feelings of cool water rushing over bare skin. How does a parent feel when watching their child experience this for the first time? What meaning can be generated from this shared experience?

- a. What can we gain from exploring the experience of adjudicating university conduct from the perspective of the administrator?
  - b. How do conduct administrators interpret the facts of a case differently for one student over another and why? Is this equitable, why or why not?
3. Generate your own meaning from the questions posed and write down any new questions you have about the topic of this study, phenomenological methods, or phenomenology applied to understanding implicit biases.

#### Brain Break: Chapter Four

The explication of meaning from lived experiences offers new dimensions to view what otherwise might be described as mundane minutia. It can also make accessible the experience of phenomena not experienced; to extend beyond the life you have lived to experience extraordinary moments lived by others.

1. Choose a participant quote that stood out to you; examine the words, visualize the participant and researcher in discussion. Imagine what sentence may have been said before the chosen quote and what may have been shared after. Read the quote within the paragraph it was placed. Identify another section where the quotation *could have* been placed. Name any new insights you have.
2. Select a hermeneutic statement of findings (there are three listed at the beginning of this chapter). How do the findings apply in the work you do? What questions do they generate for you? Can you extrapolate beyond a statement with your own understanding?

#### Closing Brain Break: Chapter Five

1. Review your notes, insights, and questions generated in previous “Brain Breaks.” How has your pre-understanding of the study topic changed?

2. Experiment with your new understanding of the topic, how might your understanding continue to change? What insights do you now have that may influence your daily life, and how?
3. Recognize your insights as they relate to you in time and space; open your mind to allowing these insights to continue to develop as you encounter the study topic in the future.

Thank you for engaging and participating as a new, participant researcher. If you wish to share your insights with me or engage in further discussion, I invite you to email me directly at [emily.busby01@gmail.com](mailto:emily.busby01@gmail.com).