



The 25th Fraternal Law Conference: Celebrating Many Years of Insight and Progress

Ilana Linder, Fraternal Law Partners, Ilana.Linder@manleyburke.com

As we prepare to embark on (what we believe to be) the 25th Fraternal Law Conference (“FLC”), we cannot help but reflect on the rich history and enduring relevance of this annual gathering.

The FLC journey began in November 1986, a time when fraternities faced unique legal challenges and sought collaborative solutions. Though our conference was not held every single year, its impact over three decades is immeasurable.

This year’s FLC promises to be a milestone, covering a spectrum of topics that have consistently shaped our fraternity landscape. From investigations to housing concerns, First Amendment rights to board members’ responsibilities, and DEI to risk management, we are exploring the very fabric of legal issues affecting fraternities and sororities today.

In honor of our significant FLC anniversary, I delved into the records of that inaugural conference in 1986. Amazingly, though perhaps not surprisingly, the issues discussed then mirror the challenges we continue to grapple with today. For example, in 1986, a session titled “Liability for Negligence and Insurance Problems” was the opening presentation. Fast forward to 2023, and we are set to engage in another session dedicated to the critical realm of risk management. Similarly, in 1986, there was a session addressing civil rights concerns; this year, this year, we will hear from the Foundation for Individual Rights in Education (FIRE) about ongoing First

Amendment challenges. The echoes of the past resonate as we navigate a world where legal landscapes shift, but core issues endure.

And just as we have been honored to host many prominent national speakers over the years—including the deans of multiple law schools, justices from three state supreme courts, U.S. Court of Appeals and District Court judges, the Chancellor of the Ohio Board of Regents, and several others—we will be joined this year by the Honorable Justice Richard Bernstein of the Michigan Supreme Court.

As we look forward to this year's Fraternal Law Conference, we anticipate not only insightful discussions but also the opportunity to reconnect with you, our valued community. Your experiences, perspectives, and expertise have been the driving force behind the longevity and success of the Fraternal Law Conference and Fraternal Law Partners. We are excited to continue exploring these consistent, yet ever-changing, issues with you and collectively shaping the future of fraternity law.

See you soon!

Top Risks in Higher Education and How Greek Life Helps

Dawn Wiese, Ph.D. Chief Operating Officer, FRMT, Ltd.

When talking with higher education administrators, a sometimes-heard university position offered as justification for over-reach and excessive insurance coverage is “fraternities present among our greatest risks on campus.” As a former vice president for student affairs, I know this drill. And, as someone who serves as an expert for both fraternity and higher education litigation,

I would argue it is important to review the full landscape on campuses related to risk, as well as strengths that Greek Life offers to campuses.

United Educators, the primary captive insurer in higher education, releases each year its “Large Loss Report”¹ and “Annual Report,”² documenting the largest losses in the education industry and greatest risks from the past year. It is from the United Educators’ reports that the idea that “Greek Life is among higher education’s greatest risks” emanates.

Why is this worth reviewing? **Greek Life does not even make an appearance** in either of the two reports. Moreover, the Annual Report reads as if it is written to encourage—not discourage—partnership with Greek Life.

Why do I say this? The data speak for itself:

United Educators 2022 Top Risks

Risk Number One: Enrollment

As “the demographic cliff” (Grawe, 2018)³ and “lost” students who never returned to campuses post-Covid⁴ hit colleges and universities, retention of students is the name of the game. What population is retained and more likely to graduate on campuses? Greeks!⁵

¹ *Large Loss Report 2022*, UNITED EDUCATORS, <https://www.ue.org/4a2b88/globalassets/global/large-loss-report-2022.pdf> (last visited Oct. 17, 2023).

² *2022 Top Risks Report: Insights for Higher Education*, UNITED EDUCATORS, <https://www.ue.org/4902a8/globalassets/risk-management/reports/2022-top-risks-report-he.pdf> (last visited Oct. 17, 2023).

³ Nathan Grawe, *Demographics and the Demand for Higher Education*. Johns Hopkins University Press. (2018).

⁴ Elissa Nadworny, *More Than 1 Million Fewer Students Are in College. Here’s How that Impacts the Economy*, NPR MORNING EDITION. (Jan. 13, 2022, 5:02AM), <https://www.npr.org/2022/01/13/1072529477/more-than-1-million-fewer-students-are-in-college-the-lowest-enrollment-numbers->.

⁵ John L. Baier & Edward G. Whipple, *Greek Values and Attitudes: A Comparison with Independents*. 28 NASPA J. 43 (Feb. 2015); Gary R. Pike & Dawn Wiese (*in press*), *The Greek Experience Revisited: The Relationships Between Fraternity/Sorority Membership and Student Engagement, Learning Outcomes, Grades, and Satisfaction with College*, J. Campus Activities & Practice; Ashley M. Asel, Tricia A. Seifert, & Ernest T. Pascarella, *The Effects Of Fraternity/Sorority Membership on College Experiences & Outcomes: A Portrait of Complexity*, 10(1) J. SORORITY & FRATERNITY LIFE 1 (June 2015).

Risk Number Three: Recruitment and Hiring

House directors, chapter advisors, other volunteers supplement the work of part- and full-time university staff; Greeks provide an entire team of support to colleges and universities that do not cost institutions a thing. And, we know anecdotally that high-performing chapters are advised by strong chapter advisers.

Risk Number Four - Operational Pressures

Higher education is facing significant budget reductions as enrollment declines, particularly those institutions that are not considered “flagships,” or “elites.” When fraternities and sororities assist with staffing and housing, they are directly addressing Number Four on the Top Ten list. Additionally, retaining students (Risk #1) is less costly than attracting new students.

Risk Number Five: Student Mental Health

Data tell us that fraternity members do not experience depression at the same rate as those not affiliated.⁶ Moreover, we know that fraternity members are more likely to refer a student to counseling services than a student not affiliated with a Greek organization. AND many of our organizations offer online counseling as a benefit.

Risk Number Six: External Pressures

United Educators cites external pressures such as economic, political, and cultural inflection points as risks for campuses. Proposed mitigation efforts include communicating the value of education to students, families, and community leaders, and engaging with the surrounding community. Once again, this is where Greeks shine. Those who participated in fraternity and sorority life are significantly more likely to serve as net promoters for their alma

⁶ Meghan M. Grace *et al*, *The Role of Fraternity/Sorority Affiliation in Supporting College Student Mental Health & Wellness*, 17(2) J. SORORITY & FRATERNITY LIFE 19 (Oct. 2022).

mater than those who were not affiliated, and we know the same to be true related to community engagement by alums of Greek organizations.⁷ If higher education positively engages with its Greek alumni, we know there are huge returns!

Risk Number Eight: Facilities and Deferred Maintenance

Great fraternity houses operated independently of colleges and universities only help the financial stress of schools. As properties that house students that are not the responsibility the college or university's to provide upkeep and maintenance, it is very real cost savings for campuses.

Risk Number Nine: Public Safety

Recent data (soon-to-be published) inform us that fraternity men are more likely to intervene in times of crisis, including situations involving sexual misconduct, alcohol/other drug misuse, and others. Greeks are naturals at bystander intervention—it's called brotherhood and sisterhood.

Risk Number Ten: Title IX

Fraternity men are less likely to demonstrate hypermasculine behaviors,⁸ and, as noted above, Greeks are more likely to intervene in sexual misconduct.

That is eight of the Top Ten Risks in which Greek Life is an asset to campuses (#2 is "Data Security" and #7 is Regulatory Compliance). When armed with facts, it is an easy argument to make that fraternities simply make colleges and universities better.

⁷ *Fraternities & Sororities: Experiences & Outcomes in College, Work, & Life*, GALLUP (2021).

⁸ Charles S. Corprew III & Avery D. Mitchell, *Keeping it Frat: Exploring the Interaction Among Fraternity Membership, Disinhibition, & Hypermasculinity on Sexually Aggressive Attitudes in College-Aged Males*. 55(6) J. Coll. Student Dev. 548 (2014).

Now, it is no time to rest on laurels. What this means is you're doing your job well; Keep it up! And, it is also important to know the facts. When talking with higher education administrators, remind them that you offer an invaluable partnership to them, and point to *their* insurer and the data as evidence.

Alpha Kappa Alpha Makes History in Digital Banking

Alison Trianfo, Fraternal Law Partners, ali.trianfo@manleyburke.com

Alpha Kappa Alpha Sorority, Inc. (AKA) put its money where its mouth is when it announced the nation's first Black-owned, women-led, sorority-based credit union earlier this year.¹

The nation's first Greek organization established by Black women was founded in 1908 at Howard University in Washington, DC. The sorority champions six program initiatives, including building economic wealth amongst its members and their families.² The "For Members Only" Federal Credit Union (FMO) will offer primary savings, loans, and other digital banking services to AKA members, their families, AKA staff, and credit union employees.³

AKA International President & CEO, Danette Anthony Reed, underscores the historic importance of a Black-owned, women-led sorority entering the financial sector. "Everyone doesn't

¹ Jasmine Brownley, *Alpha Kappa Alpha Becomes The First Sorority To Launch Its Own Credit Union*, ESSENCE (July 14, 2023), <https://www.essence.com/news/money-career/alpha-kappa-alpha-credit-union>.

² *About*, ALPHA KAPPA ALPHA SORORITY, INC., <https://aka1908.com> (last visited Oct. 19, 2023).

³ Evelyn Holmes, *Alpha Kappa Alpha Sorority Opens FMO Credit Union, First of its Kind in American History*, ABC7 EYEWITNESS NEWS (July 13, 2023), <https://abc7chicago.com/aka-sorority-alpha-kapa-credit-union-fmo/13495073/>.

understand the impact we make financially,” she says. “[Y]ou have to start doing things so folks know we know how to control our money.”⁴

Credit unions are member-owned, not-for-profit financial institutions that invest profits back into the credit union to support member services and offer unique benefits at rates lower than traditional banking institutions. “We want to invest in what we own,” FMO board member and founding subscriber, Deandra Hayes-Whigham, says.⁵

FMO is a National Credit Union Administration (NCUA) chartered and insured credit union.⁶ Thirty-eight Black-owned credit unions have been chartered by the NCUA, including two credit unions affiliated with Black fraternities.⁷

To learn more or enroll in the credit union, visit FMO’s webpage at <https://akafmofcu.org/>.

Inactivity Results in Eviction by Stanford University, Leaving \$32 Million Dollar Chapter Home Standing Empty Despite Its History

Hanna Puthoff,¹ Fraternal Law Partners, hanna.puthoff@manleyburke.com

Sigma Chi’s Alpha Omega Housing Corporation (the “House Corporation”) and its local Alpha Omega Chapter (the “Chapter”) at Stanford University (“Stanford” or the “University”) have found themselves with a terminated lease following a suspension dating back to 2018. Today, the house at 550 Lasuen is no longer a fraternity chapter house. Instead, it operates as a co-ed residence in the University’s housing allocation process.²

⁴ *Id.*

⁵ *Id.*

⁶ *NCUA Charters For Members Only Federal Credit Union*, NAT’L CREDIT UNION ADMIN. (Feb. 9, 2023), <https://ncua.gov/newsroom/press-release/2023/ncua-charters-members-only-federal-credit-union>.

⁷ Brownley, *supra* note 1.

¹ Hanna Putoff is a third year law student at NKU’s Chase College of Law.

Sigma Chi Fraternity has been part of Stanford's Greek life since 1891. The House Corporation signed a ground lease with the University over forty-five (45) years ago, renewing "indefinitely," so long as the chapter remains "active." The 14,000 square foot home, built in 1939, has undergone many improvements, including when the University requested over \$600,000 worth of renovations in 1989; the House Corporation responded with over \$4 million dollars' worth of private funding.

In 2018, Sigma Chi faced an alleged drugging incident that was eventually coupled with a finding that members violated University event planning and alcohol/substance policies. Stanford and Sigma Chi International ended up suspending the Chapter on account of these allegations.¹ This prompted Stanford University to not renew the House Corporation's lease on the ground that the Chapter was no longer considered "active"; because the Chapter was suspended, the University believed that the house was no longer acting as a chapter house (i.e., holding meetings, recruiting members). The House Corporation maintained that, regardless of whether the Chapter was suspended, the ground lease did not give the University rights in the property itself.

When the University attempted to terminate the ground lease, the House Corporation filed suit against the University in 2019. This suit resulted in a 2021 settlement agreement that established: a lease end date of August 31, 2023, an option for the House Corporation to then renew the lease but no obligation on part of the University to grant approval, and the House Corporation's agreement not to challenge the lease's termination date or the requirement to vacate if the University does not agree to renew the lease. Despite this, the House Corporation believes that the house, which is worth over \$32 million, was wrongly acquired by the University in

² Sigma Chi is eligible for reinstatement by the University in November 2023.

conjunction with the ground lease's termination, without any payment to the House Corporation, which has invested millions of dollars into the house, for the building itself.

While the University is firm that it is acting within the bounds of the lease agreement and still supporting the House Corporation and local chapter, the House Corporation and many alumni feel that past inactivity never resulted in a termination of the lease. For example, Stanford continued to support the Chapter during the late 1960's and 1970's when Sigma Chi revoked the Chapter's charter for racial integration considerations, allowing the ground lease to remain in place despite the revocation of national support.

Sigma Chi still has the opportunity to find housing on Stanford's campus, but this can prove troublesome for house corporations with long-standing leases on campus property. When issues of inactivity can jeopardize staying power of such house corporations and chapters, ensuring that lease agreements and property ownership is well adjudicated can avoid controversial and complex endings to a fraternity's historic involvement with universities.

MSU Put on Notice of Shooting Victims' Intents to Sue

Haellie Gordon,¹ Fraternal Law Partners, hgordon@manleyburke.com

The Delta Zeta Sorority and its Sigma Chapter of Delta Zeta House Corporation in Baton Rouge, Louisiana have found themselves among many named defendants in an employment discrimination suit arising from events taking place at Louisiana State University's campus during late 2021 and into 2022.

¹ Haellie Gordon is a law clerk at Manley Burke and is a third-year law student at the University of Cincinnati.

Bernadine Williams was a Black chef with over twenty-six (26) years of experience in the industry when she began working as a House Chef for College Fresh, Inc. (“College Fresh”) at the Delta Zeta Chapter at LSU. A few months after taking on the role at the Delta Zeta house, Suzette Says took over as the Food Coordinator for the Chapter. Williams is now suing Says, the Delta Zeta Sorority, the national and local house corporations, and College Fresh, alleging that she experienced a hostile work environment, mostly due to how she was treated by Says.¹⁸²

Williams’ Complaint asserts that Says was difficult to work with, going as far as ignoring Williams, communicating to her only through third parties, and refusing to refer to Williams by Williams’ name. Perhaps most egregious is the allegation that, at a chapter meeting with over one hundred (100) attendees, including student members, Williams asserts that Says stated, “I would prefer if we had a white chef.”

Further, the Complaint claims that Says retaliated against Williams for filing three formal grievances about Says to both Delta Zeta and College Fresh by demoting Williams’ title, which resulted in reduced hours and pay to Williams. However, the Complaint acknowledges that Says believed that working with Williams was like “walking on eggshells.”

Williams also seeks to hold the corporate defendants—Delta Zeta, the national and local house corporations, and College Fresh—liable for failing to adequately address the issues Williams was experiencing. To this end, the Complaint asserts that all named defendants “created and maintained a hostile environment on the basis of race...by not stopping the racially discriminatory harassment of Williams...removing [her] as head chef...and thereafter reassigning and demoting [her].”

² See Williams v. Delta Zeta Sorority, No. 23-268 (D. La. Apr. 11, 2023).

Delta Zeta representatives have already responded publicly, stating that they would “never discriminate against anyone based on protected characteristics.”³ Meanwhile, College Fresh has responded to the Complaint by filing a motion to dismiss on the basis that Williams filed her Complaint too late, as it was filed more than ninety (90) days after the Equal Employment Opportunity Commission (EEOC) issued “Notice of Right to Sue” letters to Williams.¹⁹ We anticipate that the Delta Zeta defendants will respond similarly, moving to dismiss the complaint on account of the untimeliness of the Complaint.

Regardless of what happens with this lawsuit, which may be decided not on its merits but on a technical issue, fraternities and sororities across the nation continue to be expected to enact various DEI policies and procedures. But there must also be a commitment to actually implementing and applying those policies if the policies are going to serve any real purpose. Further, whenever complaints are received suggesting potential impropriety, particularly as it relates to hostile work environments, these matters must be properly investigated to prevent further exacerbations of underlying issues.

The goal of *Fraternal Law* is to provide a discussion of fraternity law, but its contents are not intended to provide legal advice for individual problems of Greek organizations. The latter should be obtained from your attorney.

Fraternal Law is published four times a year as a non-profit service of Manley Burke, LPA, 225 West Court Street, Cincinnati, Ohio 45202, (513) 721-5525. Please address all editorial inquiries and all subscription correspondence to this address or to ilana.linder@fraternallaw.com.