

## Examining the Legal Consciousness of Residence Life Staff



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**UNDERSTANDING THE LAW HAS BECOME AN INTEGRAL PART OF THE WORK OF HIGHER EDUCATION PROFESSIONALS**, especially residence life staff. For decades, courts have contributed an increasingly important role in shaping the litigious nature of society at large and within higher education (Greenleaf, 1982). Barr and Associates (1988) noted the increasingly major influence of the law on campus life. Even in the mid-1990s, Gehring and Penney (1995) highlighted the critical need to understand legal issues for those professionals entering the field of higher education and student affairs. Since Olivas (2013) found that higher education law is a rapidly changing area in the field, knowledge of the law is critical to anyone in a professional position in higher education.



While many agree it is critical to know and understand the law, there is little empirical research examining the experiences of higher education professionals on how they obtain, utilize, understand, and maintain their competence of legal principles learned through graduate preparation programs, professional development opportunities, and/or colleagues and supervisors. Given the complex nature of legal compliance in higher education, professionals are required to understand, implement, and comply with the law on a daily basis. Consequently, this study aimed to fill this gap and examine the legal consciousness of higher education professionals, specifically residence life staff.

Among scholarship, a wide range of terminology is used to explore legal literacy and legal consciousness, including: legal knowledge, legal experience, legal context, and application/implementation of law. Given the phenomenological focus of the current study, legal consciousness is used as a framework to understand the implementation of law in student services and housing, to examine housing professionals experience of the laws as implemented, and to explore theoretical concerns presented by the manner in which these housing professionals implemented legal policies. By focusing on the legal consciousness of student affairs

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professionals working in housing, the current study also offers insight into the emotional and intellectual experiences of the individuals tasked with negotiating the complex matrix between student needs and legal requirements. Before delving into the methods and findings of the study, we highlight and provide a background on top areas of law that impact residence life professionals.

## LAWS IMPACTING RESIDENCE LIFE PROFESSIONALS

Federal and state legislation has greatly transformed the role of student affairs administrators in higher education, specifically in housing and residence life. The complexity of residence life staff roles continues to expand and, arguably, housing has been an area significantly influenced by the evolution of law in the United States. Housing staff consists of a wide range of individuals, from paraprofessionals such as resident assistants (RAs), to executive chief housing officers (CHOs), all of whom work to create a safe space, provide adequate supervision, and organize programming for student development and social engagement. Additionally, while creating a space that affords students an opportunity to navigate the college experience and establish autonomy, housing staff is required to enforce university and housing policies. Housing staff members must have a working knowledge of the legal implications associated with their role and the services campus housing provides. According to DiMaggio (1988), while housing administrators are not expected to be attorneys, they should be aware of “legal trends affecting their operations” (p. 18). Below, based on our professional observations, we review select legal

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areas we believe housing staff encounter most often: student health/safety, generally, Title IX, Family Education Rights and Privacy Act (FERPA), search and seizure, the Clery Act, and student death.

### Health and Safety of Students

The health and safety of students living in residence halls is the priority for residence life staff; this responsibility ranges from the controlled access to the overall condition and upkeep of the facilities, to the general safety and security of individuals living in the facilities. In 2011, the U.S. Department of Education issued a *Dear Colleague Letter* that outlined how educational institutions were to respond to sexual harassment, sexual violence, and discrimination. The letter communicated that students had the right to attend an institution of higher education without the interference of any of

the aforementioned issues. In the event that a student did face sexual harassment, sexual violence or discrimination, the university had an obligation to intervene and address the issue in a timely manner (Beaver, 2017). Residence life staff has a responsibility to ensure that facilities have limited or controlled access to residents and their guests, and safety concerns are addressed and resolved in a timely manner. Residence life staff members can become negligent when they fail to “exercise reasonable care or provide a reasonably safe place to live” (DiMaggio, 1988, p.16). *Miller v. State* (1984) serves as an example; a female student was attacked and raped twice at knifepoint in her residence hall room. This incident was following multiple complaints by Miller communicating concerns that nonresident males were loitering in the residence hall. Despite her reports, the doors to the residence hall remained unsecured and vulnerable, and thereby posed a major risk to safety (White, 2007). The court found the university had a duty to protect its students and in this instance, it failed to maintain the safety and security of the residence hall, creating opportunities for incidents like the one above to occur (White, 2007).

Along with safety and security, housing staff members need to maintain and manage risk. In the event of inclement weather, residence halls remain open and monitored. Facility maintenance and housing staff need to monitor severe weather conditions and implement weather related preparation and emergency procedures. In *Shannon v. Washington University* (1978), Henry Shannon sued Washington University when he fell on a patch of ice following an ice storm. In line with the university’s policy of remaining open regardless

of weather conditions, Shannon attended his classes to avoid an absence penalty. Although campus grounds had worked to remove ice and salt walkways and parking lots, some icy patches remained (*Shannon*, 1978). For most universities with on-campus housing, residence halls and a limited amount of campus dining facilities are required to remain open to serve the students even in severe weather conditions. Washington University was found to be liable for the injuries sustained and ordered to compensate Shannon.

### **Concealed Campus Carry in Living Communities**

One area of contention is the laws and guidelines surrounding concealed campus carry. In recent years, campus violence has been on the rise, creating a highly charged debate about campus carry laws, active shooter procedures, and other emergency protocols. The debate over firearms on college and university campuses is complex. “Twenty years ago, any discussion about permitting guns on college campuses would have provoked as much laughter as shock. Yet by 2012, guns were allowed on 200 public campuses in six states” (Birnbaum, 2013, p. 7). On campuses where residents are allowed to secure guns in their personal rooms, residence life staff members find themselves involved in a highly charged national, state and local debate, while also enforcing a policy that can have a direct effect on students’ health and safety. Given the complexity of the issue, the legal consciousness of the residence life staff with regard to firearms and other weapons in residence halls is critical. What makes compliance in this area challenging is that while federal provisions apply to all public institutions, the differences in

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state constitutions, laws, and regulations have created a hodge-podge of policies that affect the legality of carrying guns on-campus (Birnbaum, 2013). State laws and institutional policies vary drastically; while some do not allow any weapons on-campus, whatsoever, some allow them in certain locations, while others have very little restrictions. And then, some states prohibit institutions from banning

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weapons on-campus (Birnbaum, 2013). This maze makes it very important for residence life professionals to understand the law so that they are able to enforce and protect the students in their care.

### **Students with Disabilities**

Students with disabilities require priority housing assignments that comply with the Americans with Disabilities Act (ADA) accom-

modations. Additionally, residence life staff should be knowledgeable of ADA accommodations and inquiries/requests made by prospective and current residents. As part of these requirements, residence halls should have automatic doors for students who use wheelchairs, raised character or braille signage for visually-impaired students, cleared pathways, movable furniture, and fire alarm strobes in student rooms for hearing-impaired students. Staff should ensure that housing facilities provide “equal opportunity for students with disabilities” and that they are able to “benefit from all the services of [the] institution and . . . campus facilities” (ADA One, 2017).

Additionally, ADA accommodations can manifest in the form of service or therapy animals. Service animals are allowed with minimal restrictions in residence halls in an effort to abide by ADA guidelines. “Effective March 15, 2011, the ADA defines a service animal as a ‘dog that is individually trained to do work or perform tasks for a person with a disability’” (United States Department of Justice, 2011, para. 2). Bauman, Davidson, Sachs and Kotarski (2013) note that the Fair Housing Act (FHA) (1988) does not share the ADA’s definition of a service animal. Huss (2005) found a difference in the FHA and ADA definitions. Under the FHA, the definition of an assistance animal is broader than that of a service animal under the ADA and includes what commonly would be referred to as an emotional support animal. Although the FHA provides a much broader definition of service or therapy animals, both the ADA and FHA require reasonable accommodations for students with disabilities. It is important that residence life staff members are conscious of

the legal requirements for students with documented disabilities and work to provide appropriate accommodations for these students.

**FERPA**

FERPA is another facet of higher education that all housing staff must know. FERPA requires that students older than the age of 18 provide consent for the release of educational records (White, 2007). While there is limited research focused on the impact FERPA guidelines have within residence halls, one area challenged by some university housing officials is whether disciplinary records are considered educational records under the FERPA guidelines. Disciplinary records are, in fact, educational records and therefore subject to FERPA guidelines (White, 2007). An amendment of FERPA with the Higher Education Reauthorization Act (HERA) in 1988 gave universities the opportunity to notify parents or guardians of instances of underage drinking on-campus in an effort to minimize risky drinking behavior (Cosden, Gauthier, & Hughes, 2013). In a study conducted by Cosden, Gauthier, and Hughes (2013), students reported that while parental notification did increase communication with parents surrounding alcohol use and any legal issues, it had an impact on the students’ autonomy.

**Search and Seizure**

Search and seizure policies in residence halls and the role of the residence life staff in these incidents are multifaceted. The front-line staff (*i.e.* resident assistants) must be careful to follow the college/university protocol when entering a student’s room, performing a search, or conducting a health/safety inspection. At

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the executive level (*i.e.* chief housing officers), the student’s right to privacy and the state/federal legal issues associated with search and seizure must carefully be evaluated and written into resident assistant handbooks and department best practices.

“In light of the significant student privacy interests involved, it is critical that college and university administrators fully understand a student’s Constitutional rights under the Fourth Amendment. Failure to respect these rights may result in the institution and its employees being held civilly liable, and/or seized evidence being suppressed, typically in a criminal case” (Lemons, 2012, p. 76).

**Clery Act**

While housing personnel can create best practices to ensure the safety of their residents, students residing on-campus also can take precautionary measures to ensure their own safety. Crime reporting and timely warnings of on-going or serious threats can assist students with adjusting their behavior to protect themselves on-campus and within their housing

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With the implementation of the Clery Act, all colleges and universities receiving federal funding have an obligation to report crime statistics to prospective and current students, their families, and university faculty and staff. . . . Housing personnel, in order to comply with the legislation, should report all instances that are Clery reportable . . .

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community. With the implementation of the Clery Act, all colleges and universities receiving federal funding have an obligation to report crime statistics to prospective and current students, their families, and university faculty and staff. By disclosing crime information, via an annual report, it “enables individuals who live and work on-campus to make informed decisions about their behaviors and their safety” (Fox, Khey, & Lizotte, 2013, p. 1133). Housing personnel, in order to comply with the legislation, should report all instances that are Clery reportable, such as violations involving alcohol, drugs, weapons, burglary, and assaults, to name a few. Housing staff, specifically resident assistants, who typically are first responders to incidents in the housing complex, are required to document via incident reports that allow easy retrieval for reporting purposes. Failure to document, report, and provide accurate informa-

tion not only will create a false sense of security for on-campus residents and their guests, but also introduce liability issues should preventable incidents occur. Numerous institutions have found themselves under investigation for Clery-related violations. As a result, institutions have been fined a minimum of \$35,000 per violation, in addition to the negative publicity and ongoing scrutiny. In 2007, officials at Eastern Michigan University failed to notify the campus community about the death of a female student in her residence hall room (Mills-Senn, 2013). The resulting \$350,000 fine was the highest ever imposed by the U.S. Department of Education for Clery Act violations. This penalty served as an example to other institutions of the mishandling and the importance of timely notifications, especially when the crime is student on student (Campus Safety, 2008). By establishing all levels of housing staff as campus security authorities (CSAs), individuals have a clear idea of the expectation of notification and reporting when they have first-hand knowledge of crime information.

### **Student Death**

Lastly, the death of a student on-campus, whether by natural causes, accident, or suicide, can test housing staff emotionally and professionally. While the processes in place at each institution vary, most have a general protocol and plan of action. Halberg (1986) describes a general list of key procedures to be implemented once housing staff members have knowledge that a death has occurred. While one of the initial steps is to notify next of kin, Halberg discusses that consideration needs to be made regarding the, “well-being of the roommate, close friends, and members of the residence





hall floor” (Halberg, 1986, p. 411). By building upon Halberg’s (1986) list, support for these students have emerged over time and could include relocation requests by roommates, referral to on-campus counseling services, and the creation of spaces where students can hold an impromptu memorial service.

Death by suicide in a residence hall can pose different challenges for residence life staff. In *Schieszler vs. Ferrum College* (2002), a wrongful death suit was filed claiming the university staff failed to provide adequate supervision of Michael W. Frentzel, who had expressed on multiple occasions his desire to hurt himself following an argument with his girlfriend. Residence life staff and campus police initially intervened during an argument between Frentzel and his girlfriend. During this same time, Frentzel gave his girlfriend a note expressing that he intended to hang himself. Again, residence life staff and campus police responded to find Frentzel locked in his room. Upon contact, they found Frentzel with self-inflicted bruises and the dean of students required him to sign a *No-Harm Agreement*. Over the course of a few days, Frentzel attempted to contact his girlfriend through third parties via notes, but his girlfriend was not allowed to return to his room. Ultimately, Frentzel was found dead in his room by suicide (*Schieszel v. Ferrum College*, 2002). This case calls into question how much supervision and responsibility are required by housing staff with a student who manages mental illness or expresses suicidal ideation. Most housing staff members have minimal mental health training and are not in the role to make accurate assessments; therefore, they are required to refer students to university counseling services.

From this brief survey of legal issues concerning residence life staff and students, having an understanding of the law has become a necessity in all aspects of campus residence life for all levels of staffing, from resident assistants, to full-time professionals and the chief housing officer. As a result, in order to ensure the health and safety of stu-



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dents, limit and manage institutional risk, and prevent liability, we must understand how residence life professionals experience the law in their workplace.

## THEORETICAL FRAMEWORK

When examining the understanding of law among professionals or a group of people, researchers have primarily used the conceptual framework of legal literacy or legal consciousness. Legal literacy is most commonly used to



describe knowledge—i.e. comprehension—of law and its application to school policies (Militello, Schimmel & Ederwein, 2009; Schimmel & Militello, 2007). Within the sphere of education, research has indicated a persistent lack of legal literacy among many K-12 educators, a deficit that is most frequently linked to a lack of adequate preparation on educational law in the curriculum of teacher preparation and certification programs (Schimmel & Militello, 2007; Pazey & Cole, 2011). No research has been conducted yet to examine legal literacy among higher education professionals. The approach of most scholarship focused on legal literacy is to identify policies likely to lead to litigation, to straightforwardly assess faculty and administrator understanding of the law itself and implications of the law for educational practice, and to provide best practices to help avoid some of the most common pitfalls of being ill-informed of important legal considerations that may impact students, faculty, staff and/or administrators.

Legal consciousness, on the other hand, provides a more overt social justice orientation from which to view, describe and analyze different individuals' or groups' experiences of and relationships to law and policy.<sup>1</sup> This concept could include individuals' sense of enfranchisement and ability to engage in claims-making (Abrego, 2011), experiences of disenfranchisement or marginalization (Hull, 2016), and investigations of phenomenological aspects of how different individuals experi-

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ence legal protection in public spaces (Nielsen, 2000). The term itself originates in socio-legal research of the 1980s and 90s, with a specific goal to “address issues of legal hegemony, particularly how the law sustains its institutional power despite a persistent gap between the law on the books and the law in action” (Sibley, 2005, p. 323). This avowed focus is echoed in scholarship utilizing legal consciousness as a framework, as the concept is specifically invested in understanding how the practice and application of law can reflect and fortify extant features of power and prejudice within a society (Hull, 2016). In essence, legal consciousness was developed to analyze the gap

<sup>1</sup> Legal consciousness has also been utilized, particularly in legal theory prior to the 1990s, to describe “ideas about the nature, function, and operation of law held by anyone in society at a given time” (Trubeck, 1984, quoted in Lobel, 2006). This is not altogether different than how we are summarizing the concept here; however, earlier theory was less likely to apply an activist or social justice component in their research.

between ideals presented within the legal form with the imperfect implementation of law, and to understand who was most likely to benefit or be harmed by these practices.

Within research on higher education, a wide range of terminology is utilized to explore a similar spectrum of issues encompassed by both legal literacy and legal consciousness, including: legal knowledge, legal experience, legal context, and application/implementation of law. These studies are often focused on providing context for higher educational faculty and/or administrators to understand the experiences of students who may be impacted by more contentious areas of law and policy in postsecondary environments. Recently, research focused on student services has highlighted the impact of inconsistent state-by-state legal framework surrounding undocumented students, (Gildersleeve & Ranero, 2010; Gildersleeve, Rumann & Mondragó, 2010; Nguyen & Martinez Hoy, 2015; Nguyen & Serna, 2014, Serna, Cohen, & Nguyen, 2017) legal issues currently impacting LGBTQ students (Hull, 2016), and accommodating students with disabilities (Katsiyannis, Zhang, Landmark & Reber, 2009). Although legal literacy and legal consciousness are not utilized in most of these studies (Hull is the one exception), the equity lens employed by these scholars aligns with Sibley's (2005) discussion of how legal consciousness has been "domesticated" through an emphasis on policy application over theoretical inquiry; however, looking beyond the question of theoretical rigor, a clear picture is offered of which issues are viewed as most likely to lead to litigation, and how K-12 and higher educational institutions aim to mitigate those risks.

Although the practicality of policy implementation is not intrinsically insensitive to the lived experience of inequity and discrimination on the part of students, there is a clear sense that the practical concern of litigation is often a primary focus when crafting policy (Katsiyannis, et. all, 2009; Militello, et. all, 2009; Sanders, 2011; Schimmel & Militello, 2007). A few studies have taken a different approach foregrounding the experiences of students impacted by different legal frameworks, which offers a useful conceptualization of how the unique needs of specific marginalized student populations (in these studies, undocumented students and students within the LGBTQ community) have been shaped by complex and inconsistent legal frameworks both within and beyond the educational sphere (Gildersleeve & Ranero, 2010; Gildersleeve, et. all, 2010; Hull, 2016).

Given the phenomenological focus of the current study, legal consciousness was determined to be the most appropriate framework for creating a conceptual map of the institutional powers involved in determining what *correct* implementation of law should be in student services and housing, to examine housing professionals' experience of the laws as implemented, and to explore theoretical concerns presented by the manner in which legal policies were implemented by these housing professionals. By focusing on the legal consciousness of student affairs professionals working in housing, the current study also offers insight into the emotional and intellectual experiences of the individuals tasked with negotiating the complex matrix between student needs and legal requirements.

## METHODOLOGY

For this study, a phenomenological methodology was utilized to examine essential features of legal experiences among housing professionals at a rural flagship university in the northern United States (Creswell & Poth, 2018; Yin, 2014). The bounded nature of the chosen case study (Patton, 2015; Thomas, 2016) offers an opportunity to create a holistic picture of the spectrum of legal experiences for housing professionals working in a variety of different positions ranging from residence life coordinators to administration.

Phenomenological methodology assumes the nature of phenomena are derived from individual and collective experiences (Creswell & Poth, 2018) and, therefore, that understanding different features of human experience is best accomplished through close observation of individuals involved in this lived process of meaning-making (Patton, 2015). The number of participants and the heterogeneous nature of the job positions included in the study are essential for offering a holistic conception of the spectrum of legal experiences impacting housing university professionals (Creswell & Poth, 2018; Moustakas, 1994).

Given the emphasis on lived experiences of study participants, it was essential for the interviews to be robust in the breadth and depth of subject matter, for the content of the interviews to be focused upon defining the nature of their experiences, and for the researchers to bracket personal biases and assumptions in the presentation of participant experiences (Creswell & Poth, 2018; Moustakas, 1994). To as great a degree as possible, bracketing was utilized as a feature of the coding process for

the interviews, with categories arising out of interviewee quotations and commonly utilized phrases across the five interviews to establish validity (Patton, 2015). Utilizing this phenomenological approach facilitated our focus on the interviewees' experiences as the essential experience of legal consciousness within the space of residential and student life at the university of study (Nielsen, 2000).

### Data Collection

Purposive group-characteristic sampling (Creswell & Poth, 2018; Patton, 2015) was utilized to identify housing professionals working in a variety of positions within the university. Each of the 25 participants interviewed were full-time employees. Participation in the interview process was voluntary, and no compensation was offered. From the 25 interviews, four participants who worked in housing for the university were identified and selected for this study.

Semi-structured interviews, each lasting no more than 30 minutes, were conducted with each of the four participants. Interviews were either completed on-campus in a private room or via Skype, based on which option was most convenient for each participant. Interviews were transcribed and coded by the research team to identify common themes presented throughout the interviews.

### Participants and Analysis

This study included four participants who were all residence life paraprofessionals at the time interviews occurred. Full-time experience among participants ranged from less than a year to six years in student affairs. Each participant was assigned a pseudonym to ensure confidentiality: Amari, Campbell, Emory, and

Remy. Each interview was audio recorded and transcribed by the interviewer, a student enrolled in a master’s level law in higher education course in spring 2017. Two members of the research team completed data analysis and interpretation.

Participants all described their higher education law course in graduate school as the foundation for and most salient experience related to developing a sense of legal consciousness as a student affairs professional. . . . Beyond graduate school preparation, participants described trainings as a secondary, but important source for learning about laws and policies.

## FINDINGS

For participants in this study, the essence of experiences related to the sense of legal consciousness centered on learning about law through graduate preparation programs and consciousness as a function of job necessity. This section will share descriptions of participants’ descriptions within each theme.

### Learning Through Purposeful Education

Participants all described their higher education law course in graduate school as the foundation for and most salient experience related to developing a sense of legal consciousness as a student affairs professional. Topics in these courses varied, but topics included crisis management, case law, Title IX, Clery Act, and human resource policies. Participants reported having instructors and guests who were law professors, senior student affairs administrators (i.e., dean of students), and representatives from their university’s legal affairs counsel.

Amari described his experiences in his Law & Society class as informative in the following excerpt: “Um, we did have our higher education course . . . We really learned about monumental, precedential cases that set the tone for the field of student affairs.” Campbell reflected on the range of topics addressed in the higher education law course and emphasized the relevance of one particular topic: Family Educational Right to Privacy Act (FERPA). Campbell stated that, “What is most relevant today or that we spent a lot of time going over FERPA and student rights and all that fun stuff.”

Beyond graduate school preparation, participants described trainings as a secondary, but important source for learning about laws and policies. Emory described advancing his knowledge of the Clery Act through multiple, policy specific trainings:

“So, the laws I primarily have experience with would be the Clery Act. . . . my Clery experience has come from a few conferences . . . And then for further Clery training, I did another conference the next year.”

Participants with reporting responsibilities for Title IX and the Clery Act described the importance of being accurate about the information required, as well as policy compliance under both legal policies.

Amari described training as a means to ensure professionals have a basic knowledge of policies and procedures. Amari articulated his understanding of his employer's perception of employee preparedness around legal consciousness:

"I think it's really just expected that at this level, you understand what you need to be doing in regards to reporting and Title IX, as well as any other aspect of what we deal with. So, there's no set training. I guess there's kind of a brief overview just to kind of make sure that you are on the same page, and they kind of just set you loose."

Participants described legal consciousness through purposeful education primarily through higher education law courses in master's programs and secondarily through formal training (i.e., training).

### **Legal Consciousness as a Function of Job Necessity**

Participants described their awareness of laws and policies through their use of policies and laws in their job performances. Participants noted use of law in their current roles as resi-

dence life professionals with regard to crisis management, emergency/on-call responsibilities, Title IX compliance, and student conduct. Participants shared specific experiences about their consciousness as those experiences related to their job functions. Campbell described their consciousness around compliance with regard to FERPA as follows,

"I think that's [FERPA] most relevant because I do have access to a lot of student academic information and then conduct information as well. So, we can't really share that, and understanding the law and how that affects if that information was to be shared and who can share it."

Amari described his consciousness of law in his former role as a student life employee. He described the necessity of legal knowledge:

"In Student Life, we were responsible for compiling contracts and making sure that all of our legal jargon . . . was up to date and benefiting the university so [that] we were on the up and up . . . So my job was doing all the contracts for homecoming, special programs, [and] nightlife . . . About 20 or so [contracts] a semester."

Emory described his need to have a thorough understanding of Title IX policy and protocols because of his role as a person with staff training responsibilities: "I am responsible for kind of training our housing CSAs on what their role is." Descriptions provided above illustrate the ways that legal consciousness acted as a function of job performance for current residence life professionals in this study.

While job necessity was the most described function of legal consciousness, Remy described her use of legal knowledge in an advi-



sory capacity not directly related to her current position. Here, Remy described the ways she used legal knowledge to encourage students in Fraternity and Sorority Life (FSL) to engage in more productive behavior and how those earlier conversations helped Remy provide support to current students:

“... what can I do as a student affairs professional to help prevent some of these, you know, scenarios from happening...I try to educate my students as much as I can through formal conversations, and follow-up conversations, and I work with student orgs a lot, and I've had the opportunity to work with some of our FSL groups here on-campus about hazing and their role and how they can be proactive about getting away from that and you know, reevaluating their practices and policies and things like that.”

Participants with reporting responsibilities for Title IX and the Clery Act described the importance of being accurate about the information required, as well as policy compliance under both legal policies. Emory described his process for being current on and complying with Title IX policies and practices:

“I also serve as a Title IX investigator for the university and I have, probably, three or four (counts on fingers) separate seminars for best practices on how to investigate those incidents to make sure that we are properly responding and not like following the guidelines that are set in the response to the Title IX related incidents.”

Remy described her employment of and compliance with Title IX policies and protocols in the following excerpt related to her use of legal awareness:

“I think a lot of it [legal knowledge] interpreting policies and procedures. Everything we do there is some type of policy behind it. I think it's more relevant when we do conduct . . . well, even when I'm on call and stuff. Like, if there's anything dealing with Title IX, umm, making sure that we're abiding by all those procedures and following protocol to our Title IX Coordinator. . . . Making sure we're reporting Clery. I think that's the biggest thing, the aspect of our judicial behavior type things.”

This section described the essence of participants' experiences related to the legal consciousness of residence life professionals. Participants' experiences emerged into two themes: legal consciousness as learning through purposeful education and legal consciousness as a function of job necessity. Graduate school courses about legal issues in higher education and continued training were described as purposeful education, while reporting, compliance, and use of legal knowledge were described as legal consciousness as a function of job necessity.



On-site in-depth seminars or conferences focusing on legal and policy topics would be an example of purposeful training that would allow professionals to gain knowledge to bring back to campus and share with their colleagues.

## **IMPLICATIONS FOR PRACTICE & FUTURE RESEARCH**

Considering the limited participant sample size, the results of this study may not be broadly generalizable at a regional or national scale (Moustakas, 1994; Thomas, 2016); however, the case may provide a basis for structuring further research into the impacts of different university housing policies and for developing best practices. From the findings of the study, having a higher education law course or a course examining legal issues in the educational setting provides a good foundation of the law for paraprofessionals to understand the impact of the law in their professional work and understand compliance with the law and institutional policies. If professionals did not gain this knowledge through their professional preparation programs, then learning through trainings helped supplement their knowledge to utilize the law in their practice. However, given that on-the-job trainings can be limited to narrow topics, professionals may not be able to gain the broader application and implications of the law.

Since purposeful learning of the law through trainings was found to be helpful, institutions may find that it is beneficial to support more in-depth professional development for their professionals at on-site, face-to-face conferences or seminars on legal topics

pertaining to residence life. On-site in-depth seminars or conferences focusing on legal and policy topics would be an example of purposeful training that would allow professionals to gain knowledge to bring back to campus and share with their colleagues. The participants noted that the areas of the law that were of most concern for them were federal compliance laws, such as FERPA, the Clery Act, and Title IX. Given this need, future research could further examine which areas of law are most impactful to residence life professionals and compare these areas based on the percentage of time professionals spend daily or weekly. Since the professionals noted that legal consciousness is an essential function of their job, graduate preparation programs and institutions should be more intentional in how they deliver the learning of and training of the law. Future research may examine the various formats that professionals utilize to learn the law and the impact of the various delivery methods.

There is no doubt that the law is a critical aspect of the job for a residence life paraprofessional. Graduate preparation programs and employers should understand the importance of a legal foundation, especially for non-lawyer professionals, and how this foundation can assist professionals develop a further understanding of the law while on the job.



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## Discussion Questions

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1. In the initial review of literature, what themes appear across the descriptions of different legal concerns for housing professionals?
2. What is the difference between legal literacy and legal consciousness?
3. What resources exist to assist housing professionals in increasing their understanding and implementation of legal policies impacting their institutions?
4. What strategies do you think are, or would be, most effective in developing students' understanding of legal issues and an institution's set of policies impacting their experiences in on-campus housing?
5. To what degree do your experiences with professional development and knowledge of educational law align with those described here?
6. What legal issues do you see as most likely to increase in importance in the coming decade? Do you foresee any new issues developing that are not addressed in this article?

*Discussion questions developed by Amelia King-Kostelac, The University of Texas at San Antonio.*