The Furek case, which arose out of a hazing incident, was one of a long string of cases which have helped to define potential liability of institutions of higher learning when they recognize and/or regulate fraternities and sororities and, more broadly, it defined the limits of a college’s “bystander” status which had been posited in *Bradshaw v. Rawlings*, 1980. In that case the courts had held that the relationship between students and colleges had changed as the perceived status of the student had changed. Students were now demanding that they be treated as adults, and this reduced the degree of care and protection the college was obliged to provide. Back in the old days of *in loco parentis* there was a presumption that the college had both the right and responsibility to provide for the supervision, care, and protection of the students entrusted to them. By the early 1970s the right, at least for public institutions, was pretty much out the window. The responsibility to protect adult students from themselves and others was still subject to a great deal of litigation.

**The Facts**

Furek was a student at the University of Delaware, attending on a football scholarship. He had pledged to the local chapter of a fraternity. There was a hazing ritual connected to the initiation, and as a result of this hazing he suffered severe burns and permanent scarring from having oven cleaner poured on his back and neck. As a result he withdrew from the university and lost his scholarship. He subsequently sued the university and the student who had poured the liquid on him. The university regulated the fraternity, and one of its regulations was a ban on hazing. There had previously been injuries reported as a result of hazing by that fraternity.

**The Decision**
The court found in favor of Furek, awarding him $30,000 of which 93% was the responsibility of the university. The decision hinged on two key points. The university chose to regulate fraternities and by doing so it assumed the responsibility to take reasonable measures to enforce those regulations. The decision in Bradshaw v. Rawlings posited that students are adults and therefore the university had very limited responsibility for protecting them from the consequences of their choices. In Furek the court found that it is reasonable for the university to provide some regulation and supervision of student activities for the welfare of resident students, and in the Furek case decided that by regulating fraternities and warning students of the dangers of hazing the university was assuming the responsibility for enforcing those regulations and therefore some liability for the consequences of violations of those regulations.

The second key point was that there was a foreseeable danger. There was a history of injury connected to the hazing practices of this fraternity and therefore it was reasonable to assume that these practices presented a potential danger to some students. Again, the university had demonstrated its cognizance of this danger through its repeated warnings about the dangers of hazing. The court found that with this knowledge came responsibility beyond merely warning students of the danger.

Discussion

The age-old principle that colleges had both the right and responsibility to stand in place of the parent (in loco parentis) in their relationship to students and most especially resident students began to lose traction with the enrollment of returning veterans of World War II, and heard its death knell with the civil rights and anti-war movements of the 1960s. The courts affirmed this change in cases like Bradshaw, which defined the universities’ position in the relationship as that of bystander. Furek put something of a brake on this. In a very limited and
circumspect way the court said that colleges and universities had the right and perhaps even the
obligation to supervise a regulate students, and most especially resident students, when the health
and welfare of some students may be at issue.

The court further made it clear that when the educational institution takes it upon itself to
regulate an activity or organization it is also assuming the obligation to enforce those regulations.

Implications for the Student Affairs Profession

The implications of this court decision are, as is so often the case, not completely clear,
but there are few things that it does clarify. Can we rely on our status as bystanders to eliminate
our liability when we are aware of dangerous activities on campus? Furek says no. Should the
college regulate or limit potentially dangerous activities and supervise student organizations?
Furek says yes. But it also cautions that when we do so, we must take it seriously. What is left
for further cases to establish is the question of how much liability we can avoid by merely
recognizing fraternities or other “campus” organizations without regulating them.

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