

4-1-1976

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Recommended Citation

Bernholz, Dorothy C. (1976) "Student Legal Services at the University of North Carolina at Chapel Hill," *North Carolina Central Law Review*: Vol. 7 : No. 2 , Article 5.
Available at: <https://archives.law.nccu.edu/ncclr/vol7/iss2/5>

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STUDENT LEGAL SERVICES AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

DOROTHY C. BERNHOLZ*

College and university students are both citizens and members of the academic community. As citizens, students should enjoy the same freedom of speech, peaceful assembly and the right to petition that other citizens enjoy and, as members of the academic community, they are subject to the obligations which accrue to them by virtue of this membership. Faculty members and administrative officials should insure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus.**

In the early Seventies, student governments on campuses across the nation began developing a new concept in student campus programming. The provision of legal services for individual students, by a student government organization, reflected a desire to enhance and protect students' rights on campus and in the local community by working within the judicial system.¹ As early as 1971, a proposal for a student government legal counsel and a staffed legal aid office was developed at the University of North Carolina at Chapel Hill.² In April of that same year, the Office of the North Carolina Attorney General informed the President of the Senate of the Dialectic and Philanthropic Literary Societies of the University, that ". . . it appears that the Student Government organization of the University of North Carolina at Chapel Hill would not be authorized to employ private counsel on its own initiative to represent the Student Government organization."³ The Attorney General concluded that Student Government was essentially an

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** JOINT STATEMENT ON RIGHTS AND FREEDOMS OF STUDENTS, American Association of University Professors BULLETIN, Summer, 1968.

1. See generally, Ackerman and Howland, *Students' Attorneys*, 11 COLLEGE LAW BULLETIN 112 (June, 1971); Casebier, *Group Legal Services on the College Campus*, STUDENT LAWYER JOURNAL 24 (March, 1971); Office of Commuter Services, Oakland University, *A Survey of Student-Oriented Legal Aid Programs* (April, 1974); United States National Student Association, *Student Governments Providing Legal Services* (July, 1974); National Consumer Center for Legal Services, Washington D.C., *Student Group Legal Service Plans* (Spring, 1976).

2. *A Proposal for Legal Aid at the University of North Carolina*, 1971.

3. Letter from Harry W. McGalliard, Chief Deputy Attorney General of North Carolina to George T. Blackburn, II, President, Senate of the Dialectic and Philanthropic Literary Societies, University of North Carolina at Chapel Hill, April 30, 1971.

integral part of an agency of the State Government and, thus, was a statutorily-referred client of the Attorney General, as provided by North Carolina General Statute § 147-17.⁴

The issue surfaced in Chapel Hill again, in the summer of 1973, in a written response from the Attorney General's office to a University administrator who had inquired further as to the meaning and application of a G.S. § 147-17.⁵ This letter appeared to distinguish the role of legal advisor for the students from that of legal advisor to Student Government.

. . . in order to posit a meaningful analytical scheme for a rational application of the statute, it is necessary to distinguish the situation where the legal rights of a particular student activity organization are directly in issue from that where individual students employ and pay for the services of legal counsel with reference to situations where the individuals have a personal interest but where, incidentally, student government as an entity is also interested or by which it may be affected. Needless to say, in the latter situation, the statute does not come into play unless the student organization seeks to intervene in a particular instance as a legally cognizable party. Even if the student organization seeks so to do, an individual in the case is surely not precluded from retaining private counsel by virtue of his membership in the student organization. Moreover *it would appear that a student organization could choose to financially assist that individual if that assistance is not precluded by internal budgetary restrictions and is done in a manner consistent with the organization's own operative by-laws.*⁶

4. *Id.*; N.C. GEN. STAT. § 147-17 provides that: "(a.) No department, agency, institution, commission, bureau or other organized activity of the State which receives support in whole or in part from the State shall employ any counsel, except with the approval of the Governor. In any case or proceeding, civil or criminal, in or before any court or agency of this State or any other state or the United States, or in any other matter in which the State of North Carolina is interested, the Governor may employ such special counsel as he may deem proper or necessary to represent the interest of the State, and may fix the compensation for their services. (b.) The Attorney General shall be counsel for all departments, agencies, institutions, commissions, bureaus or other organized activities of the State which receive support in whole or in part from the State. Whenever the Attorney General shall advise the Governor that it is impracticable for him to render legal services to any State agency, institution, commission, bureau or other organized activity, or to defend a State employee or former employee as authorized by Article 31A of chapter 143 of the General Statutes, the Governor may authorize the employment of such counsel, as in his judgment, should be employed to render such services, and may fix the compensation for their services. (c.) The Governor may direct that the compensation fixed under this section for special counsel shall be paid out of appropriations or other funds credited to the appropriate department, agency, institution, commission, bureau, or other organized activity of the State or out of the Contingency and Emergency Fund."

5. Letter from Andrew A. Vanore, Jr., Deputy Attorney General of North Carolina to Richard H. Robinson, Jr., Assistant to the President, University of North Carolina, August 1, 1973.

6. *Id.* (emphasis added).

However, the Office of Attorney General remained steadfast in its view that when a student organization was involved in a legal dispute where its rights as an entity were involved, G.S. § 147-17 would preclude it from employing its own counsel, except with the approval of the Governor.⁷

The interest in obtaining legal services for students culminated in a Bill to Establish a Student Government General Counsel (BF-57-19), which was presented by Student Body President William Bates in April, 1975. It was passed, by consent, by the Campus Governing Council on April 21, 1975.⁸ As proposed, the Bill envisioned the establishment of a Legal Advisory Service, for the benefit of individual members of the student body, to be operated by a licensed attorney who would also function as general counsel to the Student Government and its satellite organizations. Such a program was to be funded for one year under a \$20,850 budget appropriated from the General Surplus of Student Government.⁹

In September of 1975 a meeting was arranged in which William Bates, the Student Body President, several other student leaders, Chancellor Ferebee Taylor, Dean Robert Byrd of the Law School and Deputy Attorney General Andrew Vanore discussed the actual implementation of BF-57-19. It was agreed among the participants that approval would be possible if Bates could secure a resolution from the Campus Governing Council that an attorney hired under the plan would be prohibited from any involvement in actions against either the University of North Carolina or the State of North Carolina.¹⁰ Such a resolution was passed and Bates proceeded to establish a Selection Committee to hire an attorney.¹¹ After screening qualified candidates, the Committee selected an attorney who was approved by the Campus Governing Council on October 7, 1975.¹²

The designated attorney and Bates determined, on the basis of personal assurances from the Attorney General's staff, that favorable action would be taken in the near future,¹³ and that no formal contract would be entered into until such approval was forthcoming. In addition, the attorney informed Bates that, since what the Bill envisioned

7. *Id.*

8. 6 S.G.C. (1974) BF-57-19, April 21, 1975; *The Daily Tar Heel*, April 22, 1975 at 1.

9. *Id.*

10. Interview with E. William Bates, III, Student Body President, University of North Carolina in Chapel Hill, N.C., Oct., 1975.

11. An Act to Amend Student Government General Council Bill, 6 S.G.C. (1974) BF-57-90, Sept. 23, 1975.

12. *The Chapel Hill Newspaper*, Oct. 8, 1975 at 1, col. 4.

13. Interview with E. William Bates, III, Student Body Pres., U.N.C.-C.H. in Chapel Hill, Oct. 28, 1976.

was in reality a prepaid legal services plan providing benefits for student members of Student Government, additional approval of the plan was needed from the North Carolina Bar Council. North Carolina G.S. § 84-23.1(b) requires that “. . . plans providing for prepaid legal services must be submitted to the Council and may not be implemented or operated without prior and continuing approval. . . .”¹⁴ A plan of group or “prepaid” legal services is “one in which there is payment in advance by the individual to be served or by someone on his behalf, for legal services that he may need or use in the future.”¹⁵ There are basically two types of prepaid legal plans. First, there is the closed panel wherein an organization, such as a union, a consumer group or student group, contracts with a specified lawyer to provide legal services to the group’s members for a specified fee. An open panel plan involves an association of lawyers who agree to provide legal services to members of the group for a specified fee.¹⁶ As David Maron, the editor of “New Directions in Legal Services” has stated, “. . . [w]hile group legal services’ refers to the method of delivery, and ‘pre-paid’ [sic] to a funding mechanism, these two terms are often used interchangeably.”¹⁷

Three months later, with no formal response by the Attorney General to Bates’ inquiries, the attorney was hired as a consultant, on a temporary basis, for the sole purpose of re-drafting the Student Bill into a plan to be submitted to the Bar Council.¹⁸ In the last week of January, 1976, the plan was completed and a copy forwarded to the Attorney General’s office for review. On February 3, 1976, the plan was forwarded to the North Carolina Bar Council with a request for approval.¹⁹

OPEN VERSUS CLOSED PANELS

Because group legal services, especially for students, is a relatively new concept, state laws and bar association regulations which operate to deny approval are only presently being confronted.²⁰ As a member of

14. N.C. GEN. STAT. § 84-23.1 (b).

15. Murphy, *A Vision of the Future*, 11 TRIAL 12, 13 (March-April, 1975).

16. *Id.*

17. Maron, *Under the Rubric of Group Legal Services*, 1 NEW DIRECTIONS IN LEGAL SERVICES 1, 8 (April-May, 1976).

18. An Act to Allow Student Government Executive Branch to Hire a Legal Consultant, 6 S.G.C. (1974) BF-57-241, January 13, 1976.

19. Letter from E. William Bates, III, to B.E. James, Secretary of the N.C. State Bar, Feb. 2, 1976.

20. See Moore, *Emerging Plans of Prepaid Legal Services in the United States*, INTERNATIONAL BAR J., 29 (November, 1975); Gasperini, *Prepaid Legal Services: The Long View*, 61 AM. BAR. ASSOC. J. 1348 (November, 1975); Wilson, *Justice Department and Other Views on Prepaid Legal Services Plans Get an Airing before the Tunney Subcommittee*, 60 AM. BAR ASSOC. J. 791 (July, 1974); Comment, *Student Legal Services for Ohio’s State Universities*, 4 TOLEDO L. REV. 567 (Spring, 1973); Note, *Legal Ethics*, 48 TEX. L. REV. 1215 (1970).

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the North Carolina Bar, the attorney retained by Student Government to provide legal services for students is subject to the Code of Professional Responsibility as enforced by the North Carolina State Bar.²¹ The Code, and the companion North Carolina statutes, require the avoidance of conflicts of interest, influence by non-lawyers and the solicitation of litigation.²²

The North Carolina State Bar recently adopted DR2-103(d) of the Code of Professional Responsibility which, together with G.S. § 84-23.1(2), defines the conditions under which lawyers may ethically cooperate with organizations sponsoring or operating plans designed to help the public meet the costs of legal services.²³ Previously only the traditional legal services plans such as a legal aid office, a military legal assistance office or lawyer referral services were approved.²⁴ Now, for the first time in North Carolina, the Bar has defined standards that any other legal assistance organization must meet. A non-profit organization such as a university students' association can recommend, furnish or pay for legal services to its members or beneficiaries, but ". . . only in those instances and to the extent that controlling constitutional interpretation at the time of the rendition of the services requires the allowance of such legal service activities. . . ." ²⁵

21. N.C. GEN. STAT. § 84-28.

22. NORTH CAROLINA CODE OF PROFESSIONAL RESPONSIBILITY, DR 9-102. CANON 6 makes it improper to represent conflicting interests and defines "conflicting interest" as a duty to contend in behalf of one client for that which duty to another client requires the attorney to oppose.

N.C. GEN. STAT. § 84-4 prohibits persons, other than members of the State Bar from practicing law ". . . by word, sign, letter, or advertisement, to hold out himself, or themselves as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney"

N.C. GEN. STAT. § 84-38 prohibits the solicitation of retainer of contract for legal services by making it unlawful "for any person, firm, corporation, or association or his or their agent, agents, or employees, acting on his or their behalf, to solicit or procure through solicitation either directly or indirectly, any legal business, whether to be performed in this State or elsewhere, or to solicit or procure through solicitation either directly or indirectly, a retainer or contract, written or oral, or any agreement authorizing an attorney or any other person, firm, corporation, or association to perform or render any legal services"

23. N.C. GEN. STAT. § 84-23.1; NORTH CAROLINA CODE OF PROFESSIONAL RESPONSIBILITY, DR 2-103 (d).

24. NORTH CAROLINA CANON 35 states that an attorney may not be controlled or exploited by any lay agency that intervenes between the lawyer and his client. Legal aid organizations are not deemed such intermediaries.

25. DR 2-103 (d)(5). "The extent to which constitutional interpretations required that states allow group plans was very unclear. . . . The unduly restrictive nature of these amendments (to the Code of Professional Responsibility) and the uncertainty associated with attorney involvement with group plans appeared capable of having a chilling effect on plan development." Broadman, *Current Developments*, 1 *NEW DIRECTIONS IN LEGAL SERVICES* 1, 12 (April-May, 1976).

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Under DR2-103(d) there are five standards that must be met before a plan can obtain approval. The first standard requires that the primary purposes of the organization financing the plan not include the rendition of legal services.²⁶ The University of North Carolina at Chapel Hill Student Constitution empowers Student Government, through its legislative branch, the Campus Governing Council, to "make laws necessary and proper to promote the general welfare of the Student Body."²⁷ The provision of legal services by Student Government clearly constitutes a secondary function of the organization.

The second standard provides that recommending, furnishing, or paying for legal services for students is incidental and reasonably related to the organization's primary purpose.²⁸ A program which would benefit the students' well-being clearly is reasonably related to the student constitutional requirement calling for promotion of "the general welfare of the Student Body."²⁹ Examples of other programs on campus that are arguably incidental and reasonably related to the education process at the University of North Carolina at Chapel Hill are the Student Health Service, which provides individual student medical care and psychiatric counseling; the Career Planning and Placement Office, which provides individual employment services; and the Student Aid Office, which provides financial counseling for students. It has been held that a state university is not constitutionally prohibited from expending mandatorially assessed student fees in support of student association programs.³⁰

Under the third standard, the organization providing the legal services is prohibited from deriving benefit from such services.³¹ Since no fees will be collected directly from the individual seeking legal aid, either by the attorney or Student Government, this program is clearly a non-profit service solely for the benefit of the student members.

In meeting the fourth standard, the plan recognizes that the students, the beneficiaries for whom the services are rendered, are the individual clients of the attorney.³² The participating attorney will be solely responsible to the individual student whom he represents and act in his best interests rather than that of Student Government. The confidentiality of the attorney-client relationship will be maintained at all times.

26. DR 2-103(d)(5)(a).

27. 6 S.G.C., Chap. 1, Art. 1, Sec. 4(L) (1974).

28. DR 2-103(d)(5)(b).

29. 6 S.G.C., Chap. 1, Art. 1, Sec. 4(L) (1974).

30. *Veed v. Schwartzkopp*, 353 F. Supp. 149 (D. Neb. 1973), *aff'd without opinion* 478 F.2d 1407 (8th Cir. 1973); *Arrington v. Taylor*, 380 F. Supp. 1348 (M.D.N.C. 1974), 526 F.2d 587 (4th Cir. 1975), *cert. denied*, — U.S. —, 96 S. Ct. 1111 (1976).

31. DR 2-103(d)(5)(c).

32. DR 2-103(d)(5)(d).

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Under the plan, as explained in the subsequent section of this article, Student Government will in no way restrict the right of the students eligible to receive legal services to select his or her own attorney from the actual members of the North Carolina Bar. Student Government, prior to the initiation of any legal services activities, has provided and will continue to provide full disclosure of any relevant information concerning its legal services plan, as required by both DR 2-103(d)(5) and by G.S. 84-23.1.³³

The recent amendment to Chapter 83 of the General Statutes of North Carolina, which further regulates the provision of prepaid legal services, contains the limitation that "the Council shall not approve any plan for pre-paid [sic] legal services which in any way restricts the right of the client or person receiving pre-paid [sic] legal services to select his own attorney from the actual members of the North Carolina State Bar or a member of any other State Bar."³⁴ As of the date of the submission of the University of North Carolina-Chapel Hill plan, the statute had not been applied to prohibit any closed panel plans, although a reading of the language implies that a closed panel plan which does not reimburse those beneficiaries wishing to "opt-out" of the services of the retained panel attorney would be prohibited.³⁵ The then Student Government President William Bates determined that, because the closed panel method of delivery of legal services provided significant opportunities for cost savings unavailable under an open panel plan, the University of North Carolina would submit a closed panel plan in hopes that the North Carolina State Bar would loosely apply the statute in any review of the plan and thus find the plan to be in compliance with the statute.³⁶

Upon receipt of the plan, the Secretary of the North Carolina State Bar forwarded it to the Chairman of the Bar's Prepaid Legal Services Committee and to the President of the North Carolina Prepaid Legal Services Corporation for approval.³⁷ The Chairman responded that he was of the opinion that "the advice feature (of the University of North Carolina-Chapel Hill plan) does amount to a closed panel, because the

33. DR 2-103(d)(5)(e); N.C. GEN. STAT. § 84-23.1; Letter from E. William Bates, III, Student Body President of U.N.C.-C.H. to B.E. James, Secretary of the North Carolina Bar, February 2, 1976.

34. N.C. GEN. STAT. § 84-23.1.

35. It is argued that a closed panel approach allows higher quality services, greater quality control and lower costs. Duke University's Associated Students, in preliminary negotiations with the Bar Council, agreed to provide an "opt-out" feature. Interview with Traylor Mercer, Students' Attorney, Duke University in Durham, February 4, 1976.

36. Interview with E. William Bates, III, Student Body President of U.N.C.-C.H. in Chapel Hill, January 28, 1976.

37. Letter from B.E. James, Secretary of North Carolina Bar to E. William Bates, III, Student Body President, University of North Carolina at Chapel Hill, March 4, 1976.

student must consult this (on-campus) attorney first."³⁸ He concluded the letter with the following statement:

I talked to some of the consumer people in Philadelphia last weekend and if we turn down the University of North Carolina plan, which I believe we must as it is presently structured, then this may afford a test case situation for the consumers concerning the closed panel feature of the bill. Of course, we cannot control that.³⁹

The President of the North Carolina Prepaid Legal Services Corporations stated that he found the University of North Carolina-Chapel Hill plan to be in direct violation of N.C. G.S. § 84-23.1(b).⁴⁰

Bates, acting in consultation with William O. Richardson, the President-Elect of Student Government, reviewed the two alternatives which then confronted them. Student Government could assert its right to operate a closed panel plan, thereby testing the validity of N.C. G.S. § 84-23.1⁴¹ or it could submit an alternative plan. Again the considerations of cost and expediency won out. Believing that a court test would not be in the student's best interest because it would further delay the provision of legal services to the students, at great expense, Bates and Richardson agreed to submit a modified version of the plan, modeled after the Duke University Legal Services Plan which had obtained approval in February.⁴² Although the addition of an opt-out voucher system to the plan would be costlier than a closed panel plan, it was felt that a limited one-year program with restrictive caseload guidelines could be undertaken under the existing \$20,850.00 appropriated for that purpose.

By allowing attorneys to work with only specified group plans, the North Carolina Code of Professional Responsibility, together with North Carolina General Statute § 84-23.1(b), effectively determines the forms these plans may assume. Several landmark decisions by the United States Supreme Court have been precipitated by groups suffering from state bar associations' restrictions on group practice. On four separate occasions, the Supreme Court has upheld the first amendment right of groups to assist with the vindication of members' rights by establishing group and prepaid legal services programs, where such associations do not result in recognizable harm to the client, the public or the profes-

38. Letter from Beverly C. Moore, Chairman, Prepaid Legal Services Committee of the North Carolina State Bar to B.E. James, Secretary of the North Carolina Bar, February 19, 1976.

39. *Id.*

40. Letter from R.W. Hutchins, President of the North Carolina Prepaid Legal Services Corporation to B.E. James, Secretary, North Carolina State Bar, February 20, 1976.

41. *Id.*

42. Interview with E. William Bates, III, Student Body President, University of North Carolina at Chapel Hill, March 22, 1976.

sion.⁴³ In the most recent case, the Supreme Court has prohibited state action that denies "associations of workers and *others* the means of enabling their members the cost of legal representation."⁴⁴ Despite the seemingly direct language of the Court, this case has not answered all questions about the nature and extent of protection afforded group plans by the Constitution. The students felt that the requirement by the state of an opt-out provision not only added uncertainty to estimates of utilization and predictions of the number of participating attorneys needed, but, in addition, added on unpredictable program costs.⁴⁵ Thus, the students could reasonably argue that the State Bar, as required by N.C. G.S. § 84-23.1(b), was in fact denying them the means of enabling their members the cost of legal representation. In other words, the students' choice of a closed panel plan, which is cheaper to operate, was denied approval by the State Bar and very seriously jeopardized their financial ability to provide a service to all students. For the reasons previously stated, the Student Government resubmitted a plan containing an opt-out feature in the hopeful anticipation that the majority of students would not elect to utilize the opt-out feature in preference for the on-campus attorney. That plan received favorable approval by the Bar Council on April 16, 1976.⁴⁶

HOW THE PLAN WORKS

Given the size of the student population and the limited one-year experimental funding of the program, such a plan most efficiently handles problems which do not appear likely to terminate in actual court litigation but rather require advice and negotiation by an attorney. The goal of the Student Government plan is to provide students with assistance in understanding the factors that should be considered when one seeks legal advice, to determine if a lawyer's services are or are not necessary and to provide appropriate referral to agencies and/or attorneys.

Matriculated students at the University of North Carolina are entitled to the benefits provided. The program will not cover the payment of court costs, fees incidental to litigation, fines, penalties, or amounts of any judgments awarded against the student. Although this program is

43. *United Transp. Union v. State Bar of Michigan*, 401 U.S. 576 (1971); *District 12, U.M.W. v. Illinois State Bar Ass'n*, 389 U.S. 217 (1967); *Brotherhood of R.R. Trainmen v. Virginia*, 377 U.S. 1 (1964); *N.A.A.C.P. v. Button*, 371 U.S. 415 (1963).

44. *United Transp. Union v. State Bar of Michigan*, 401 U.S. 576, 585 (1971) (emphasis added).

45. Broadman, *Current Developments*, 1 *NEW DIRECTIONS IN LEGAL SERVICES* 1, 13 (April-May 1976).

46. Interview with William O. Richardson, Student Body President at the University of North Carolina at Chapel Hill, April 16, 1976.

free as a service to the students, there is no compulsion to contact Student Legal Services regarding any legal problem. Students are free to contact any lawyer of their own choice at their own expense.

Student Government will, however, assist students seeking free legal services by the provision of an on-campus attorney and, in the alternative, the provision of a payment-voucher for those students electing to see an off-campus attorney of their choice. Payment for these contacts are subject to budgetary controls and Student Government cannot guarantee that full or partial payment will be available for every student.

If the student elects an off-campus attorney, the Student Legal Assistance Committee will review the request for an off-campus voucher. Such requests will meet with approval if: (1) the nature of the legal services sought is available under the plan, (2) the plan has the financial resources available for payment of the voucher, and (3) other students with fewer previous contacts would not be pre-empted. The decision of the Committee will be based solely upon considerations of available funds and fairness in making limited resources available on a reasonable basis to as many students as possible. Students granted a voucher will be directed to an attorney referral list containing the names of Orange County attorneys agreeing to participate at a stated nominal charge per legal man-hour.

The purpose of this program is to encourage students to seek the advice of an attorney when they anticipate or encounter legal difficulties. The on-campus attorney will advise students on any type of legal problem, with the exception of those situations listed under Plan Restrictions below. In addition, legal representation up to and including all stages of trial will be provided in certain types of cases, of which the following are representative:

- . Landlord/tenant problems affecting a student's living arrangements in the community.
- . Consumer problems confronting individual students.
- . Discrimination problems encountered by students in securing housing or employment in the community.

In the following types of cases, representation will not be available and the student may obtain advice only:

- . All criminal matters, including traffic violations.
- . All problems relating to domestic relations.
- . Tax filing, will drafting, business ventures.
- . Any contingent fee matters (those cases wherein an attorney charges no fee but rather the attorney and client reach an agreement that a certain percentage of any judgment rendered will constitute payment for the services).

Cases will be considered on an individual basis and will be excluded if, in the opinion of the attorney, they are unreasonable or unnecessary. Attorneys handling matters under this program are governed by all existing laws, usages and customs concerning the practice of law in North Carolina and nothing in the program is intended to diminish their professional responsibility to their client.

Neither Student Government nor the attorneys cooperating with the program guarantee the continuance of the program for any given length of time. In all instances, cases chosen for legal representation shall be limited according to priorities of time, finances and significance to students generally.

The plan will not offer advice or legal representation in the following situations:

- . Legal cases pending or controversies existing prior to the establishment of the legal services program, whether or not the student had actual knowledge of the pendency of the case.
- . Any matter with respect to which the attorney is of the opinion that it would be a violation of the Code of Professional Responsibility to participate.
- . Any disputes between students in an action against the interests of another student.
- . Any action requiring court appearances outside of Durham, Wake, Orange, Chatham or Alamance counties.
- . Any dispute where the State of North Carolina is an interested party (this includes any department, agency, institution, including the University of North Carolina, commission, bureau, or other organized activity of the State which receives support in whole or in part from the State).

Any complaints or disputes that students have concerning the exclusion of their case pursuant to caseload guidelines will be reviewed by the Legal Advisory Committee. This Committee, composed of representatives from the faculty, administration and students, has as its primary responsibility the general evaluation of the Legal Services Plan in addition to serving as an Appeal Board for dissatisfied students. Attorneys associated with this program remain private practitioners rendering services to student clients and are not considered agents or representatives of Student Government.

CONCLUSION

Unjustified concern has been expressed over the possibility of student governments, fortified by a resident counsel, engaging in wholesale litigation against various parties, both public and private. However,

student associations have a constitutionally protected right to deliver legal services to the members of their group.⁴⁷

The Student Constitution at the University of North Carolina at Chapel Hill has as its goals "to preserve order, make personal freedom secure, establish justice and win a lasting opportunity for responsible individual and collective action."⁴⁸ To attain these goals, students attending the state university need adequate access to a legal services delivery system. Recourse to the judicial system often allows students to avoid or mitigate problems which lead to confrontation. Most students attending the University of North Carolina at Chapel Hill have attained their majority⁴⁹ and are entitled to the management of their own affairs and to the enjoyment of civic rights.⁵⁰ Students living in a university community can be expected to encounter the same legal problems as members of the community at large. They, too, must have adequate access to lawyers if the procedure of litigation, as a means of redress and vindication of rights, is to be meaningful.⁵¹

In furnishing legal services to its student members, the University of North Carolina at Chapel Hill Student Government has asserted that the relationship between a student who pays a student activities fee and the Student Government does not differ substantially from that of one who receives legal representation as an incident to his dues-paying membership in a union. Student Government's cooperation, in a dignified manner, with an attorney for the provision of group legal services for students would not diminish the ethical standards of the legal profession to the extent of outweighing the rights of students to associate freely for effective assertion of legal rights.

The University of North Carolina Board of Trustees have broad discretionary authority to use university funds to create facilities and programs incidental to the educational process and for the orderly management of the University.⁵² The delegation of authority by the University Board of Trustees to established agencies of Student Government in respect to student conduct and discipline is proper and constitutional.⁵³ The University has recognized that students' monies can be spent for activities approved for the students by their representatives.⁵⁴ The Chancellor delegates and has delegated authority to exercise disci-

47. 401 U.S. 576 (1971).

48. 6 S.G.C. Preamble (1974).

49. N.C. GEN. STAT. § 163.55.

50. 42 Am. Jur. 2d, Infants, § 1.

51. See *Hackin v. Arizona*, 389 U.S. 143, 145 (1967) (Douglas, J. *dissenting*).

52. In re Carter, 262 N.C. 360, 137 S.E.2d 150 (1964); N.C. GEN. STAT. § 116-1, 116-3, 116-4, 116-10, 116-11, 143-307; N.C. CONST. ART. 9, § 6.

53. 262 N.C. 360, 137 S.E.2d 150.

54. J. Brooks, Summary History of the Student Activities Fee of Student Government at the University of North Carolina at Chapel Hill, October 8, 1971.

plinary and administrative functions in student life to agencies of Student Government.⁵⁵ Therefore the action taken by the Campus Governing Council in the Spring of 1975, authorizing the establishment of a legal aid plan to benefit students, was clearly a proper use of university funds to create a program incidental to student conduct and one which would enhance the students' well-being. The appropriation was consistent with Student Government's Code and was not precluded by any internal budgetary restrictions.

As was pointed out recently in a publication by the Resource Center for Consumers of Legal Services, a legal service program may produce an important by-product.

[O]ften the unrecoverable costs of litigation are greater than the potential recovery. With . . . legal services, however, economic inequality may cease to be an obstacle to reaching the merits. This principle can easily be translated into law reform efforts through which discreet groups of individuals having common legal interests join together to advance their common concerns. Hence, consumers of goods and services may gain long-needed muscle. . . .⁵⁶

At this writing the plan is just beginning operation at the University of North Carolina. Law student volunteer efforts are being coordinated with special attention being given to their utilization as preventive law counselors, aiding with educational workshops, student newspaper articles and evaluation questionnaires. The Chapel Hill (Orange County) Bar has responded favorably to the plan with some 21 attorneys agreeing to participate. The university administration in the Office of Students Affairs is providing much insight and encouragement, as are individual faculty members from the university and the Law School. Thus, the student voice, now has an organized effort on its behalf to insure that it is heard in the legal forums of our state that can respond.

The students, as the consumers standing to benefit from the rendition of legal service, will determine the ultimate worth of the program. If at the end of the initial funding year, the students, through their council representatives, decide the program does not benefit the general welfare of the student body, then they alone have the option of non-renewal. Group legal services plans must remain accountable to the consumers of that service; if they do not, then the student-consumers should consider alternative legal services delivery systems.

55. Record of the University of North Carolina at Chapel Hill, 1975-1976 Issue.

56. Bernstein and DeMent, *Whither Legal Services Delivery*, 1 *NEW DIRECTIONS IN LEGAL SERVICES* 1, 10 (April-May, 1976).