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ABSTRACT

The question of whether academicians are or should be ethical requires serious discussion, especially given the presence of select instances of unethical behavior among some professionals. One history professor responded to claims that he was a boring lecturer by presenting videotaped instruction; one English professor failed a student on an exam because the student missed the exam, even though she had called the professor with a valid excuse; and one male faculty member sexually harassed students whom he believed would not be taken seriously if they reported his abuses, such as foreign, obese, mentally retarded, emotionally disturbed, and/or physically handicapped students. There are four strong reasons why academicians should be ethical. The first is the long historical tradition of ethics in education, described by Plato, Aristotle, and Quintilian, among others. Second, academicians are members of a profession with a code of ethics and professional judgment to which the courts of the land defer; this legal deference carries a concomitant expectation of ethical professional behavior on the part of educators. Third, academic accrediting institutions have an obligation to assure themselves that institutions under review conduct their affairs with honesty and frankness. The fourth reason for ethical behavior is that educators are role models for students. In order to promote an ethical climate on campus, academicians should take personal action by becoming advocates for victims of unethical behavior, by implementing a code of ethics on campus, and by encouraging their institutions to offer a course in ethics on campus. (JMC)

Are Academicians by Their Very Natures Ethical, or Should They Be?

by

Doric Little

October 12, 1989

Paper presented at the Virginia Community College Association Annual Convention (7th, Roanoke, Virginia, October 12-14, 1989).

"Are Academicians By Their Very Natures Ethical,
Or Should They Be?"
By: Dr. Doric Little

Are academicians (those of us in higher education) by our very natures ethical or should we be? The title of my presentation brings two questions to mind:

1. What is "ethical"?

2. Isn't this question a truism?

"Ethical", as defined in the American Heritage Dictionary, second edition, is "conforming to professional standards of conduct." "Truism", according to the same dictionary, is "an undoubted, self-evident truth." The truth of the matter is that most of us <u>are</u> ethical (conform to professional standards of conduct), but some of us <u>are not</u>.

I would like to present to you three examples which serve to illustrate unethical behavior among our colleagues. The first is that of a history professor who was criticized in his classroom for being boring. He showed his students! He quit lecturing and played a videotape of a history lecture (a commercial product) instead. At the end of each class session, he would turn the tape off and ask, "Are there any questions?"

Another example came to my attention when I asked a young woman how school was going just two weeks into the semester. She had been out of high school for 4 years and was a single parent. She told me that school was great but some college teachers were really strange. When I asked her why she felt that way, she told me the following story:

She was taking an English class on Mondays, Wednesdays, and Fridays. The previous Friday, her daughter had been sick with a high fever. Knowing that she would miss a scheduled exam, the student called her instructor Friday morning to tell her that she had to take her daughter to the doctor and would get a doctor's slip to verify her excuse. Since the next Monday was a holiday, she informed the teacher that she would make up the class on Wednesday, the next scheduled class. When she arrived in class on Wednesday, the teacher informed her she had flunked the exam.

How can you flunk an exam you didn't take? Rather easily in this class. In her nine-page synopsis, the instructor has a line that states that ten points will be deducted for each calendar day a paper or test is late. Since the exam in question was worth fifty points, this student lost 10 points for Friday (the day she took her daughter to the doctor), ten for Saturday, ten for Sunday, ten for Monday (Labor Day, a National holiday) and ten for Tuesday, the day the student works. By Wednesday, the student had flunked.

When questioned about the justice of this, the teacher explained that she's too busy to take personal problems into account so this rule is applied regardless of the circumstances. Interestingly, the nine-page synopsis contains a line which states that students are not to contact the teacher at home on evenings, weekends, or holidays.

The final example of unethical behavior is the worst case of sexual harassment in a college of which I am personally aware. This case involved a male faculty member in a position of power, but not a teacher. The women he chose to harass by touching and/or speaking inappropriately to were either foreign, obese, mentally retarded, emotionally disturbed, or physically handicapped. These were women that this sick man felt that no one would believe if they told of his actions. It was in fact years (ten or more) before a deaf student told her interpreter what this man had done to her (he always stopped short of a criminal act) and a formal complaint was filed. By this time, a sexual harassment policy was in place and the man was eased out through incentive early retirement.

As I stated before I gave these examples, most of us are ethical but some of us are not. Next the question which needs to be addressed is - "Should we be?" I contend we should be ethical and we should be for at least four reasons.

First, we have a strong historical tradition of ethics in education. Plato, in his Laws, stated that "If you ask what is the good of education in general, the answer is easy; that education makes good men and that good men act nobly." Aristotle, in his text, Rhetoric, defined "rhetoric" as persuasion, went on to characterize teachers as persuaders and described the most important component of persuasion as ethos (credibility). If we are to be effective persuaders of our students, we must be credible; that is, viewed as ethical by our students.

The Roman educator and rhetorician, Quintilian, wrote one of the first significant texts about how to teach, The Education of the Orator (A.D. 95). Quintilian defined the product of his school, the citizen/orator, as a good man speaking well. Finally, the nineteenth century German universities introduced the concepts of "lehr freiheit" - freedom to teach - and "lern freiheit" - freedom to learn. These concepts served to provide the entire academic community with a guarantee of intellectual liberty in academic pursuits.

Second, we are members of a profession. As members of a profession, we have a code of ethics. Further, the courts of our land defer to our professional judgment.

While not every college campus has formally adopted a code of ethics, most of us subscribe to and use as guidelines the "Statement on Professional Ethics" of the American Association of University Professors (revised June 1987). The Community Colleges of the University of Hawaii formally adapted this statement in 1989. Other campuses, such as those that make up the Northern Virginia Community Colleges, have drafted their own statement of values or codes of ethics.

As to the courts deferring to our professional judgment, several court cases will serve to illustrate this point. In July of 1965, a United States District Court heard the case of Thomas Connelly, Jr. v. the University of Vermont and State Agricultural College. Connelly was a medical student who missed one week of a class, but maintained an "A" average in the course. His instructor failed him for the semester stating that no one will pass his class if they miss a week of instruction. The student was subsequently dismissed from school. The court directed his reinstatement in the college holding the

"instructor's refusal to give a passing grade regardless of the quality of work was equivalent to an allegation of bad faith and arbitrariness and capriciousness on the part of the instructor." The court stated further that "only when school authorities abuse their discretion may a court interfere with their decision to dismiss a student."

This principle was reaffirmed by the Supreme Court in The Board of Curators, University of Missouri v. Horowitz in 1978. The case involved an "A" student who failed her clinical sessions in the judgment of seven faculty members who expressed dissatisfaction at her competence, her peer and patient rapport, her attendance and her personal hygiene. The Supreme Court found that she had received due process and ruled that "University faculty must have the widest range of discretion in making judgments as to the academic performance of students and their entitlement to promotion or graduation."

In 1985, this principle of deference to academic decision making was restated by the Supreme Court in the case of the Regents of the University of Michigan v. Ewing. The opinion of the court states "When judges are asked to review the substance of a genuinely academic decision, such as this one, they should show great respect for the faculty's professional judgment. Plainly, they may not override it unless it is such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment."

I have gone to some length to demonstrate that courts defer to our academic decision making. The reason for this discussion is that I believe there is a concomitant expectation of professional behavior on our part. We are afforded deference due to our professionalism; therefore, we must behave professionally.

Third, our accrediting commissions state that they have an obligation to assure themselves that institutions under their review conduct their affairs with honesty and frankness. WASC (the Western Association of Schools and Colleges) adopted "Procedures in Matters of Institutional Ethics and Integrity" in 1976. The procedures explain that cases where they have cause to believe that an institution is "acting in an unethical manner or deliberately misrepresenting itself to students or public, it will investigate the matter and provide the institution an opportunity to explain the alleged abuse." If the Commission finds the institution has engaged in unethical conduct, it may issue a show cause order or sever relationships entirely.

Finally, whether we choose to be or not, we are role models for our students. For many of our community college students, we are the first professionals with whom they have had the opportunity to relate to over a period of time. We are their models of ethical conduct.

Based upon the four reasons I've just presented, I would assert strongly that we should be ethical. The next question to be addressed is "How do we support and maintain an ethical climate on our campuses?"

There are three ways that we can promote an ethical climate on our campuses. The first is the easiest and probably the most important. That is, we can take personal action.

I'd like to go back to the three examples of unethical behavior that I began with and share with you how each was dealt with by the personal intervention of faculty and administrators. The first example, that of the history teacher who showed video tapes rather than teaching, was easily solved. A faculty member spoke to the Department Chair regarding the situation. The Department Chair spoke to the history teacher who is now back to lecturing to his classes.

The second example was difficult. It illustrates how important it is for us to serve as advocates of students who are being treated unethically. With the encouragement of an understanding faculty member, the young woman who "flunked" the English test filed an academic grievance. She met with sympathy and no action every step of the way. She spoke and/or wrote letters to the teacher, the Division Chair, the Assistant Dean, the Dean (twice), an Academic Grievance Committee and the Provost. The result was that nothing was done about her case, but the college agreed to look into the college-wide problem of using academic punishment for calendar days missed. The student was exceedingly grateful to her faculty advocate. She wholeheartedly asserts that she could never have persisted up the bureaucratic grievance ladder without her advocate.

In the third example which I presented earlier, it took the complaint of the deaf student, her interpreter, an understanding and sympathetic dean and provost and a sexual harassment policy to rid the campus of a harasser of numerous students. We can make a difference. We have made a difference. Each of you, through personal action, can play a critical role in ensuring an ethical climate on your campus.

Secondly, we can all check to see if a code of ethics has been adopted on our campus. If it has, great. If it hasn't, it needs to be done. Whether we adopt a new code or review an existing code, we are promoting college renewal. Reflecting on the goals and mission of our institution as they relate to a code of ethics is a healthy academic exercise which needs to be done regularly.

Third, we should check to see if a course in ethics is being offered on our campus. Derek Bok, the President of Harvard, wrote about the need for teaching ethics in 1982 in his book, Beyond the Ivory Tower; Social Responsibilities of the Modern University. He stated that "In the last analysis, the function of the university is not to define and enforce proper moral and political standards for the society... An interesting initiative is encouraging the teaching of moral reasoning and applied ethics at both the college and professional school level... The alumni seem more interested in this than the faculty."

In his 1986 text, Higher Learning, Bok elaborates on the importance of teaching courses in ethics and moral reasoning. He asserts that:

> Properly taught, such offerings can avoid indoctrination while demonstrating that moral questions are susceptible to rigorous thought. Through this work, students may learn that they share more basic values than they had supposed, and that many seeming differences of opinion about ethical issues are not simply matters of conflicting personal preference but the result of hasty, poorly reasoned arguments that can be reconsidered and put aside. In these ways, courses in ethics may not only enhance a student's moral awareness but help to achieve a greater common understanding on many questions.

I'd like to share with you now a portion of a news analysis presented on National Public Radio last year. The commentator was discussing Oliver North's conviction and the fact that news journalists had gone to the Naval Academy at Annapolis (North's alma mater) to find out whether a course in ethics was offered there. The answer was "No." Whether it would have made a difference in North's behavior is open to question. It's just a provocative bit of trivia. Incidentally, West Point does require an ethics course and introduces ethics across the curriculum.

The concept of offering "Ethics Across the Curriculum" is a relatively new growing trend across the country. One of the pioneers in this trend is Kathy Fedorko of Middlesex County Community College in Edison, New Jersey. This concept affords a rich means of creating an ethical base on our campuses.

I began this speech with one question - "Are Academicians By Their Very Natures Ethical or Should They Be?" I would like to conclude with several questions:

Who will support an ethics course or ethics across the curriculum on your campus?

Who will determine if your campus has a code of ethics or if the goals and missions of your campus are in line with your code?

Who will serve as a student's advocate when a student faces an ethical problem?

Who serves as a role model for all students with whom he or she comes into contact?

Who?