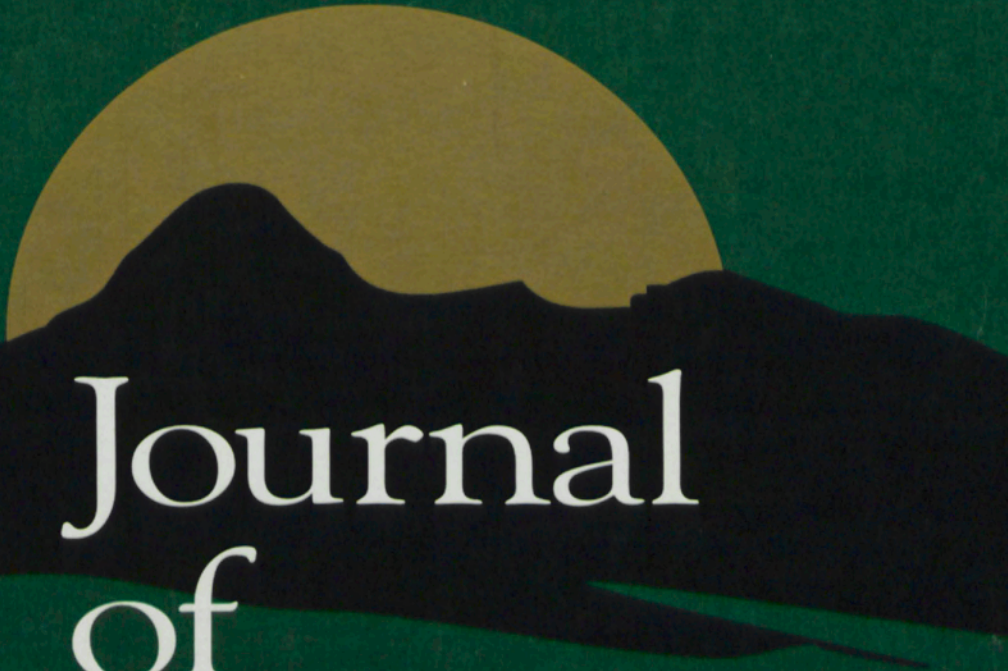


Volume VI, 1997

Colorado
State
University



Journal
of
Student
Affairs

Colorado State University Journal of Student Affairs Mission and Goal Statement

MISSION STATEMENT

The mission of the *Colorado State University Journal of Student Affairs* is to develop and produce a scholarly publication that reflects current education issues and the professional interests of student affairs practitioners. Specifically, the *Journal* provides an opportunity for the publication of articles by current students, alumni, and faculty of the Student Affairs in Higher Education graduate program.

GOALS

The *Journal* will promote scholarly work, reflecting the importance of professional and academic writing in higher education.

The editorial board of the *Journal* will offer opportunities for students to develop editorial skills, critical thinking skills, and writing skills while producing a professional journal.

The *Journal* will serve as a communication tool to alumni and other professionals regarding updates and the status of the Student Affairs in Higher Education graduate program at Colorado State University.

Colorado State University Journal of Student Affairs Volume Six, 1997

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The 1996-96 *Colorado State University Journal of Student Affairs* Editorial Board members would like to extend their appreciation to the following individuals for their contributions:

Dr. Keith Miser, Vice President for Student Affairs, and Dr. Grant Sherwood, Director of Housing and Food Services who have given guidance, experience, and support for the *Journal*.

Martha Fosdick, Assistant to the Vice President for Student Affairs, who has been the guiding light behind the changes in this year's *Journal*. Her contributions have been invaluable.

Jennifer Hamilton, Assistant to the Director of SAHE, who has endured all of the challenges provided by the editors. Jennifer has played a critical role and we thank her.

The Journal Board who has created a new standard of excellence for the *Journal*.

Colorado State SAHE alumni who have offered continued support of the program. Thank you.

We would also extend our appreciation to Pamela Karbowski, Director of Marketing Department for Housing, for her assistance and Kyle Malone for his creation and development of our new cover.

Thanks to Michael Stifter ('97) who participated in the production of the Volume Five of the *Journal*. Though his name was omitted from the editorial board page of Volume Five, we valued his contribution.

Finally to those who submitted articles for the 1996-1997 edition, your research and insight has produced an exciting professional journal.

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A Note from the Editors

Ray F. Gasser
Jocelyn Lowry

“Education’s purpose is to replace an empty mind with an open one.”

-Malcolm S. Forbes

As we move toward the next millenium, we are in an age of technology and face the challenges of keeping pace with the rapid changes in education. Institutions also have the responsibility of keeping up with the changes in student populations. These changes in the student body may range from the increase in the non-traditional student population, to the obstacles students are facing with financing their education.

As we hope happens every year, we had submissions from current students, alumni, faculty, and student affairs professionals that contributed to this year’s *Journal*. The invaluable contribution from our Editorial board and Reader board is greatly appreciated. We would like to thank everyone for their time and commitment to getting this year’s *Journal* published on time.

This year’s edition of the *Journal* has a wide variety of articles that address some of the issues that students and institutions are currently dealing with, and we believe the authors have done a great job articulating suggestions for the student affairs profession.

One of the goals of this year’s *Journal* was to develop an exciting new cover and revise our mission statement. After reflecting upon the last five years of the *Journal*, we would like to thank all of the past editors for their contribution to the development in making the *Journal* what it is today. Dr. Sharon Anderson and Dr. Jim Banning have co-authored a qualitative research article detailing the *Journal’s* development over the past five years. From the new look to the variety of articles, we hope everyone enjoys the *Journal*. Let us know what you think by visiting the *Journal* on-line at www.colostate.edu/Depts/DSA

Well, it is now time to bring closure to the 1997 edition of the *Colorado State University Journal of Student Affairs*. As we all look forward to the 21st century, we hope this year’s *Journal* articles will help you face the emerging challenges of today and tomorrow.

The State of the Program

Dr. Grant Sherwood

Program Director

Student Affairs in Higher Education

This year marks a significant milestone in the history of our student affair's masters program. Thirty years and over 300 graduates later our academic program continues to offer educational training/development for future leaders in higher education. Our classes, assistantships and practicums have changed significantly over the years. We continue to offer broad based experimental activities complimented by a core student development focused curriculum. It has been personally rewarding to follow the careers of our graduates. We hope the foundation established at Colorado State University is serving you well.

We currently have 42 students actively pursuing their masters today. Interest in admission to our program continues to be high and we are currently focussed on how to better integrate our efforts with other graduate degrees in the School of Education. The masters programs in Adult Education and Human Resource Development and the new Ph.D. degree in Community College Administration are examples of such efforts.

As we approach the 21st century, our faculty are continually challenged to be relevant and focussed on the changing issues of our profession. The breadth of articles covered, in this our sixth year of publishing this journal, is evidence of this challenge. My thanks to all who have contributed and a special note of appreciation to our co-editors Jocelyn Lowry and Ray Gasser.

**Student Affairs in Higher Education
1996-97 Hardee's
Diversity Scholarship Recipients:**

Jocelyn Lowry '97

Jennifer Hamilton '97

***Congratulations SAHE/Diversity
Scholarship Winners!***

The authors of this article have reviewed and completed a qualitative analysis of the first five years of the Colorado State University Journal of Student Affairs. The analysis included identifying key characteristics of authors, the types of themes and focus of the articles, and topics or issues in the field that have not been addressed by the authors writing for the Journal.

Themes of the First Five Years: A Qualitative Analysis of the *Colorado State University Journal of Student Affairs*

Dr. Sharon K. Anderson and Dr. James H. Banning

INTRODUCTION

Many, if not most, academic and professional journals publish articles that review and examine some aspect of the journal itself. The review is often on the content of the articles, authorship of the articles (Boisoneau, 1989), and other issues of interest to the journal and its audience. This year, the Colorado State University Journal of Student Affairs celebrates its sixth year of publication. The Journal's purpose is to publish articles ". . . for the student affairs generalist who has a broad responsibility for educational leadership, policy, staff development, and management . . ." (Colorado State University Journal of Student Affairs, 1996). The purpose of this article is to review and examine the first five years of the *Journal* by providing a descriptive analysis of the *Journal's* authorship characteristics and content areas. More specifically, we asked the questions: Who are the authors of the *Journal* and what are their professional roles, institutional affiliations, and genders? What are the topics being covered in the *Journal*? Which topics are associated with which author characteristics? And finally, what topics remain uncovered in the *Journal* that would be helpful to the student affairs generalist?

METHOD

A qualitative approach was used to answer the above questions. For each article, the author(s), the article title, and abstract (when available) was examined using the qualitative software HyperRESEARCH. In order to answer the questions of who are the authors and what are their characteristics, tallies were kept for the following major demographic variables: alumnus, faculty, staff, student, single or multiple authors, male, female, and Colorado State University affiliation at the time of submission. Yearly trends of author characteristics were examined by looking at the data on a volume by volume basis. In addition, each journal article title was given a descriptive code or topic code (i.e., gay career development) and then all topical codes were analyzed by using the process of constant comparative analysis (Glaser, 1978). A cross tabulation procedure was used to examine the authorship characteristics and topical categories. Finally, the list of student affairs topics addressed in the *Journal* was compared to the suggested topic list given to prospective writers by the *Journal's* editors.

RESULTS

Authorship. Over the first five years, 64 different authors have contributed to the *Journal* (See Table 1). The authors represent four major university groups: students, staff, faculty, and alumni of Colorado State's Student Affairs in Higher Education program. As indicated in Table 1 some authors held multiple roles at the time of publication. The category of students as authors is the largest group, contributing 43.2 % of the articles. Alumni are the next largest group of contributors to the *Journal* (25.6%). Faculty and staff have contributed 16.2% and 14.8% of the articles, respectively. A majority of these authors (75%) are Colorado State University affiliates belonging to one or more of the previously mentioned groups. With the exception of the year 1996, gender representation has been relatively equal during the first five years of publication. Overall, females have authorship for 52% and males 48% of the articles. Of the 55 articles, a majority (76.4%) are written by single authors. Generally, the categories of gender, CSU vs. non-CSU affiliation, and single vs. multiple authorship remain consistent throughout the five years with only an occasional variation. In the university groups, however, there is a slight increase in student authorship and slight decrease in faculty authorship.

Topics. Over the first five years, the *Journal* has published 55 articles addressing nine topical themes (See Table 2). Approximately two-fifths (40%) of the articles focused on issues of diversity. Diversity issues covered a broad spectrum of concerns including: ethnic identity development, minority

Table 1
Authors' Characteristics

	1992	1993	1994	1995	1996	Total
Alumnus*	5	5	4	2	3	19
Faculty*	1	3	3	3	2	12
Staff*	1	4	2	2	2	11
Student*	5	5	5	7	10	32
Male	7	9	7	5	5	33
Female	5	8	7	7	9	36
CSU Affiliation	8	9	9	9	13	48
Non-CSU Affiliation	4	8	5	3	1	21
Single Author	10	7	8	10	10	45
Multiple Author	1	6	3	1	2	13

* Note: some authors have more than one role (i.e. alumnus/staff)

retention, multicultural awareness and training, international students, needs of at-risk Black students, feminist perspectives, gender relations, men's issues, single-sex colleges, gay career development, Gay, Lesbian and Bisexual (GLB) identity development, and GLB student needs.

The second most common theme, Student Development Theory, was discussed in 20% of the articles. Authors addressed several different student development theories including: identity development, intellectual development, personal development, spiritual development, transition theory, and involvement theory.

The next three most common thematic categories were Student Affairs Administrative Issues, Student Affairs Programmatic Issues, and Selection, Preparation and On-Going Training of Student Affairs Personnel. Each of these categories constituted 13% of the articles. Administrative issues covered concerns such as student activism, legal issues, academic dishonesty, AIDS policy, and political correctness. In addition to student orientation, Student Affairs Programmatic issues included discussions related to study abroad, community development, and ropes courses. The last category of Selection, Preparation, and On-Going Training of Student Affairs Personnel addressed staff selection, staff training, and resident assistant burnout.

The remaining articles addressed four category themes: Need for Change, Ethics, Mental Health Issues, and Student Affairs Research Priorities.

Topics by Author Type. In response to the question of what topics are being addressed by what authors, it should be noted that most topics had a

Table 2

Themes of Colorado State University Journal of Student Affairs

<u>Topical Themes</u>	<u>Percentage of articles with theme</u>	<u>Number of articles with theme</u>
Diversity	40%	22
Ethnic Diversity (11 articles)		
Gender Diversity (8 articles)		
Sexual Orientation (3 articles)		
Student Development Theory	20%	11
Student Affairs Administrative Issues	13%	7
Student Affairs Programmatic Issues	13%	7
Selection, Preparation, and On-Going	13%	7
Training of Student Affairs Personnel		
Need for Change	7%	4
Ethics	5%	3
Mental Health Issues	4%	2
Research Priorities in Student Affairs	2%	1

Note: Several articles expressed more than one theme; therefore, the total number of articles indicated in Table 2 exceed 55. Percentages of total articles, however, is based on the 55 total articles found in volumes I through IV.

variety of author characteristics associated with them; however, one clear pattern did emerge. Except for two, the authors of the articles on Issues of Diversity were all students or recent graduates. One of two exceptions included a faculty member as only the third author in a multiple authorship article and the other diversity article not by a student was by a faculty member who wrote about feminist leadership. In addition, the majority of the diversity articles were written by students representative of the article's specific diversity category.

Topics Not Addressed by Journal Authors. As we reviewed the list of suggested topics of interest that the *Journal* makes available to prospective authors, we discovered that there are a number of areas (27 topics) that have not been addressed. Despite the large number of articles focusing on diversity, several groups have not received attention, for example, disabled students, first generation students, graduate students, and athletes. Articles relating to the community college setting have been absent. In addition, topics concerning student affairs administrative matters such as budgets, finances, policy development, and federal regulations have not attracted authors. Some of the missing topics seem more timely than others based on

current campus issues. For example, articles concerning freedom of speech, campus morals, individual rights, community needs, and human relations practices in student affairs would seem to be timely articles for the campus community. These are topics that impact the work of student affairs professionals on a daily basis.

SUMMARY

During the first five years, the *Colorado State University Journal of Student Affairs* has published a wide array of topics important to the student affairs generalist. In addition, the *Journal* is providing a forum for authors who represent different backgrounds and roles on campus and an opportunity for the development of new researchers and scholars in the field of student affairs. The *Journal* is not only managed by students, but students make up the largest group of contributing authors. The student affairs field benefits both from the content of the articles published in the *Journal* as well as from the development of new scholars and researchers coming into the profession.

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Dr. Sharon K. Anderson and Dr. James H. Banning are both faculty members in the School of Education, Colorado State University.

This article examines the current dilemma between a students' right to privacy and expanding technology. The authors specifically delve into the issue of privacy and the Internet.

Technology and Privacy in Conflict: An Analysis of Students' Rights

Ray Gasser and Debra Harding

A student's right to privacy has been a legal issue facing higher education since the death of *in loco parentis*. An elusive term, privacy's meaning and what interests it protects is often debated.

While the question of privacy has rarely been directly discussed in moral thought, it is not surprising that the problem has been lurking on the fringes of all moral, political, and legal theory, awaiting consideration. It is a historical commonplace that problems often await acknowledgment until circumstantial developments force them upon our attention. After centuries of failure to recognize privacy as a fact pertinent to moral and political speculation, we suddenly find ourselves concerned with the right of privacy as one of the most critical problems of contemporary political and legal analysis. The nature of our social structure as it has developed in the recent past forces us to recognize that the privacy which until now has apparently been casually presumed as an ingredient of moral action can no longer be presumed but must be specified. (McLean, 1995, p. 4-5)

Recognizing the importance of analyzing privacy, it is imperative that institutions of higher education assist in the process of defining privacy for students and not rely solely on the courts to determine what privacy is and is not.

The questions surrounding students' privacy for higher education institutions are numerous. Currently, administrators are struggling to

determine the expectation of privacy that students should anticipate with regard to electronic technologies. Some institutions of higher education have attempted to make all data communication public, while other institutions have attempted to differentiate between private and public communications. In the light of recent changes, it will become increasingly complicated to balance a student's right to privacy and the institution's duty to protect.

Many institutions have diminished students' privacy rights as a result of the legal debates over the issue. Yet, within the last few years, an increased pressure has been placed upon institutions dealing with advanced technologies. As colleges and universities seek to provide opportunities for students to learn more about technologies such as computer networks and the World Wide Web, there are many implications for institutions in regard to privacy. Given the fact that many campuses utilize these technologies to keep records and data about students, to what extent can institutions protect a student's privacy?

THE COURTS AND PRIVACY

Today, the right to privacy is recognized in the United States by either statute or common law decisions. The evolutionary process of privacy has been slow, only responding to legal questions contested in the courts. While the Bill of Rights fails to outline a right to privacy, the Supreme Court has ruled to support the notion using the First, Third, Fourth, Fifth, and Ninth Amendments (Regan, 1995). Privacy has been viewed as essential to protect other, more well-established rights. The relationship between the First and Fourth Amendment will become particularly important as the issue of privacy with electronic communications is deciphered. Throughout the history of the courts, a person's freedom of speech is, in some instances, a part of a privacy interest. However, rather than describing that evolution, the focus will be on the right to be free from unreasonable searches. Having a comprehensive understanding of the Fourth Amendment and its interpretation by the courts is essential in order to understand a student's right to privacy. The Fourth Amendment reads:

The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
(Amendment IV, 1791)

The Supreme Court recognized that the Fourth Amendment protects privacy

interests as early as 1886 in *Boyd v. United States*, when law enforcement officers used a general warrant to search and seize any “private papers, to be used in evidence against him in a proceeding to forfeit his property for alleged fraud against the revenue laws” (*Boyd v. United States*, 1886). The case provided a framework for the probable cause standard that the courts use to determine a “reasonable search and seizure.”

Privacy interests were dealt a blow in an important technology case, *Olmstead v. United States* (1928). The Supreme Court, in a five to four ruling, decided that the Fourth Amendment did not apply to wiretapping because “no physical trespass was involved, which would be necessary for there to be a ‘search,’ because phone messages are not tangible items that can be ‘seized,’ and because there was no protection for voice communication projected outside the home” (Regan, 1995, p. 36). Wiretapping continued to be constitutional until 1967 when the Court overruled *Olmstead* in *Katz v. United States*. The Court held that the Fourth Amendment protects people, not places, and did not require physical trespass or seizure of tangible material.

As judicial interpretations have expanded the scope of the Fourth Amendment, the *Katz* decision established a test to determine privacy. “First, that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as ‘reasonable’” (*Katz v. United States*, 1967). The subjective part of the test entails an analysis of the means the individual employs to protect his or her privacy. The more objective part examines at what society regards to be a reasonable expectation of privacy. While the second part recognizes there is a societal interest, it does so without defining “society.” This leaves the notion of privacy as a “relative, indeterminate concept that is not easily converted into a workable legal standard” (Regan, 1995, p. 38).

In *Menard v. Mitchell* (1971), the District of Columbia Circuit Court defined the restraints necessary to curb governmental abuse of its data-gathering powers that diminish the individual’s right of privacy. This case provides a framework with which one can examine privacy and electronic communications.

A heavy burden is placed on all branches of Government to maintain a proper equilibrium between the acquisition of information and necessity to safeguard privacy. Systematic recordation and dissemination of information about individual citizens is a form of surveillance and control which may easily inhibit freedom. (*Menard v. Mitchell*, 1971)

This case is one example of the court’s articulation of a consistent point specifying that the government cannot infringe upon one’s privacy without

probable cause. This essentially creates a balance between the state's and the individual's rights.

Therefore, in view of the extraordinary advances in electronic communications, the courts will need to seriously revisit the Fourth Amendment as they examine the notion of privacy. With technology continuing to develop and expand into all aspects of one's professional and personal life, new standards on privacy issues must be established to provide higher education institutions an understanding of types of protection they not only can expect, but also what they should provide students. "The subjectivity of the Court's current approach provides a poor basis for predicting future decisions, and makes it likely that future approaches to the Fourth Amendment will replace the one in vogue today" (Sergent, 1995, p. 1228).

TECHNOLOGY AND PRIVACY

As technology continues to develop, the ambiguity surrounding privacy also will increase. The creation and extensive world-wide use of the Internet and electronic communications has created a situation in which an individual's privacy is sacrificed. This especially poses many obstacles for colleges and universities, since most academic institutions promote the use of new communication mediums to their students and faculty.

Users of computer networks are subjected to many practices that, under normal circumstances, would be considered a violation of their privacy. As a user of electronic communications, one may be subjected to tracking devices that monitor which Web sites a person browses. Frequently, this information is sold unbeknownst to the browser. Additionally, some companies have taken the added responsibility of censoring conversations and filtering posted information as a person browses the Web or sends electronic messages. While some of these practices are quite intrusive, and in any other situation considered illegal, on most computer networks not only are they quite common but they also are not regulated.

Instead of redefining what privacy means in light of advanced technologies, governmental legislation proposes more restrictive and regulatory procedures to electronic communications than are applied to or expected of any other communication medium. Specific types of information and topics of conversation to be restricted or regulated can be found in most academic institutions' libraries, discussed on campuses, and in many classrooms. These restrictions, while specifically created to regulate the distribution of pornography to minors, have other serious implications regarding the issue of a student's right to privacy on a college campus. Privacy restrictions go hand-in-hand with the proposed legislation, as enforcement of these restrictions requires institutions to become 'watchdogs'

who police their students' use of computer networks twenty-four hours a day, seven days a week, allowing little to go unnoticed while providing no personal privacy.

Both electronic communications and World Wide Web users, whether or not they are aware of it, are subjecting themselves to a situation in which privacy is a luxury. Many consider the Internet and computer networks to be public space so much that a person's expectation of privacy is diminished, if not non-existent. This should be disconcerting, as conversations which normally take place in hallways, on telephones, or via paper mail, are now subject to "eavesdropping" and regulation based on the medium used to communicate. In light of the public's increased concern about privacy — 1992 saw the highest percentage ever recorded with over 80% of respondents indicating that they were 'very concerned' or 'somewhat concerned' with technology and privacy — the government's reaction to this concern is quite perplexing (Smith, 1994).

HISTORY OF REGULATIONS ON ELECTRONIC COMMUNICATIONS

Until the Telecommunications Act of 1996, laws and regulations that apply to the parameters of specific types of communication mediums - newspapers, television, and radio have existed for years, yet little has been done to regulate electronic communications. Since this technology is relatively new and unfamiliar, in most instances when the realm of electronic communication was questioned, laws related to television, radio, or print media were applied to help clarify the confusion. Few attempts were made to create legislation that would specifically apply to computers and the Internet.

The Communication Decency Act (CDA) is a part of the Telecommunications Act of 1996 that Congress passed on January 31 and was signed by President Clinton in February 1996. It is the first governmental attempt to regulate this new realm of electronic communications. Under Title V, the authors of the Act specify their opposition to using telecommunications devices to distribute "obscene" materials to persons under 18 years of age. Specifically the Act states:

Whoever . . . uses any interactive computer service to display in a manner available to a person under 18 years of age, any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication . . .

Whoever . . . knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity, shall be fined under title 18, United States Code, or imprisoned not more than two years, or both.

Immediately after the President signed the Act, over nineteen groups, including the American Civil Liberties Union and the American Library Association filed suit claiming that "the provisions were too vague; inhibited discussions of sex, literature, and art; and inappropriately applied standards from radio and television to the newer medium of cyberspace" (DeLoughry, 1996, p. A23).

In the joint suit *American Civil Liberties Union v. Janet Reno* and *American Library Association v. United States Justice Department*, a three-judge panel ruled that the Communication Decency Act was unconstitutional citing that it was unconstitutionally vague and over broad (Young, 1996). The panel stated specifically that "the Communications Decency Act . . . had gone too far in restricting the First Amendment rights of all computer users in its effort to protect children from gaining access to pornography." They went on to state that the "Internet may fairly be regarded as a never-ending world-wide conversation. . . [and] that the Government may not, through CDA, interrupt that conversation. As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from governmental intrusion" (DeLoughry and Young, 1996, p. A17).

In response to the decision, the Justice Department notified the Supreme Court that it plans to appeal the ruling. If the Supreme Court decides to hear the appeal, a final decision could be expected as early as 1997 (DeLoughry, 1996). Essentially, this leaves all Internet users with more months of uncertainty regarding what legally can be distributed, discussed, and displayed with regard to computer networks. Yet, this is not the end of the story. Many legislators and activist groups promise to continue to propose legislation regulating the same types of material until something similar to the Communications Decency Act of 1996 is passed by Congress, held to be constitutional, and becomes law.

Even though the CDA is considered to be a "non-issue" for the time being, the promise of future attempts to regulate electronic communications and its users, creates potential problems for many higher education institutions and their administrators. Specifically, there is concern over the fact that, while this legislation deals directly with restricting "speech," it is very important to colleges and universities as providers of computer network access, owners of libraries, art and literature, and as distributors of information in cyberspace. This is significant in light of the impact it will

have on students and their privacy rights on college campuses regarding their electronic interactions.

IMPLICATIONS FOR HIGHER EDUCATION

Administrators have much to be concerned about, as the use of electronic communications increases dramatically day after day, bringing information to more and more people. While the Communication Decency Act creates a large burden on institutions related to free speech and its censorship, within that context, there is an added burden directly related to the monitoring of student activity in the realm of electronic communications. Colleges and universities essentially will be forced to become 'watchdogs' in order to ensure that regulations are followed. This, in effect, will create an environment in which an individual's privacy is severely limited, if not eliminated altogether.

Institutions will have to be concerned with two issues in particular. The first is the collection and use of information obtained through tracking devices or activity logs related to private facts or characteristics of individual students. The second is the continuous monitoring and regulation of students' electronic communications, including their e-mail, Web pages, conversations, posting of information, and distribution of information. This burden is quite heavy, as it creates a situation in which higher education institutions' staff potentially could be held liable for their students' actions.

The use of activity logs or tracking devices is widespread. Most activity logs can perform many functions, including: tracking e-mail communications and electronic conversations, pinpointing what Web sites are visited, not to mention tracking which parts of a site were viewed, if any information was downloaded, and the frequency of site visits. Some of this information is used to monitor activity and is "critical for computer-system administrators, who use [it] to keep their computers properly tuned" (Wilson, 1995, p. A17). Yet, the information obtained may be used in less appropriate ways that may in fact violate a student's right to privacy. This is particularly significant in light of the Federal Education Record Protection Act (FERPA) and the specific regulations it places on colleges and universities to protect certain kinds of information and to provide for a student's privacy. Most institutions who have computer networks also collect and store similar information that may be accessible to persons not authorized to obtain this information about students. What safeguards do institutions have in place to protect this private information about students?

Often, students who are new to computer networks, the Internet, or to a particular Web site may be relatively unaware of the fact that their actions are being monitored. This is coupled with the fact that most of these

interactions are far from private and this information is not collected separately from the identity of the user. Some network administrators can identify each student by their log-on, e-mail address, or terminal identification information. With this in mind, it is necessary to consider how certain confidential information is used. “[Critics claim] that the information can be misused by administrators, as well as by outsiders who break into the system. Some say administrators are too cavalier about releasing logs to researchers. Others fear that researchers could inadvertently reveal confidential information about individuals” (Wilson, 1995, p. A17). This is particularly important if a student uses the Internet to collect information about something that is confidential — having AIDS or having a certain religious faith, for example. The use or distribution of this confidential information is an infringement on that student’s right to privacy, in addition to potential FERPA violation.

This is only one example of the limited privacy in electronic communications that far surpasses the notion of cyberspace being “public.” Transaction logs, if not protected and maintained properly, can lead to a serious infringement of students’ privacy rights. In addition, the misuse or distribution of such information can place an institution in a position of serious liability. Yet, many who monitor this type of information on institutional networks may not understand the significance of this responsibility. Respective of the CDA and some of its restrictions, institutions would be forced to create more advanced tracking systems with which to limit inappropriate use of the computer networks they maintain. This may in fact cause much concern as it “would violate [students’] rights to obtain information privately and anonymously” (DeLoughry, 1996, p. A21).

Once this type of information is collected, it cannot be completely purged. Most computer networks create an extensive memory related to its use and anyone who knows how to obtain this information can do so, even with current safeguards. This is particularly disconcerting as computer hackers are abundant and tapping into computer data banks is quite commonplace. How can students be protected against the distribution or availability of such private information? This question is a difficult one. As new technology is created, there is someone who knows how to circumvent any safeguards associated with it. This essentially negates any endeavors to provide privacy to students who utilize electronic communication.

The second concern for higher education institutions relates to the specific use of their computer networks by students and their activities in cyberspace. Whether or not the CDA is determined to be constitutional, some regulation will most likely exist, such that institutions will be required to extensively monitor their students’ use of electronic communications via university owned and operated networks. This fact creates an atmosphere of non-existent privacy for students and turns institutions into the ultimate

regulator, similar to Big Brother (Orwell, 1949).

The situation is such that if certain restrictions exist related to electronic communications, colleges and universities will be expected to continuously monitor activity, sacrificing their students' right to privacy. This has significant implications to the academic atmosphere of most institutions as they would be required to "review student and scholarly activities on line. . . [and that it would] inevitably limit freedom of expression on the nation's campuses" (Young, 1996, p. A21). This is true based on the fact that the penalties for violating CDA far outweigh the institution's desire to protect a student's right to privacy. Additionally, the potential damage to an institution's reputation due to the negative publicity generated by such a penalty being enforced is tremendous. As an institution, the individual student's privacy interest is relatively insignificant in light of public humiliation and thus "if . . . you're a prudent university, you're going to have to screen everything students post" (Young, 1996, p. A21).

The idea of continuously being watched and monitored, knowing that someone is 'listening' to your conversations, reading your e-mail, watching you construct your Web site, and looking over your shoulder as you view other Web sites, definitely brings to mind images of a world where individual privacy is nonexistent. The burden that this creates for most institutions is enormous. Some students may simply choose to eliminate their computer networks and Internet access altogether, sacrificing the benefits received from the existence of this type of technology. Yet, supporters of CDA and electronic communications regulations note that "unless colleges were aware of indecent Web pages . . . they would not be responsible for them . . . but critics say this response points out how the law will turn colleges into censors of their students" (Young, April 26, 1996, p. A21).

It is obvious that, in light of potential penalties, institutions will feel that their need to protect themselves will far outweigh their need to protect their students' privacy interests. Who can protect a student's right to privacy if an institution is unwilling to do so? As the future promises more technological advances, in addition to more attempts to regulate electronic communications, what hope is there for a student and their desire to maintain personal privacy? Will institutions be forced to operate in an environment in which academic freedom and students' privacy are a thing of the past - a luxury the institution can ill afford? Without considerable attempts to protect the privacy interests of students on a college campus, this scenario can, in fact, come to fruition.

RECOMMENDATIONS

As educational administrators struggle with issues related to electronic

communications, the following policy recommendations should be considered. Inherently, higher education institutions need to convey the message that use of the university's computer systems is a privilege rather than a right. With that privilege, all normal standards of conduct for the university apply and a violation could likely result in the student losing this privilege. The important role for student affairs professionals is to understand the issues that surround a student's right to privacy as related to electronic communications.

Reasonable Expectation of Privacy. Students should expect that privacy will be maintained wherever possible. As a general rule, to protect these interests, an institution will rely on a warrant to seize any and all information that would be deemed private on their computers. The exception would be Web pages, which are created for the public eye and therefore do not have an expectation of privacy. Otherwise, all electronic communications that are directed toward a select number of people or only for the author shall be deemed as private and protected from unreasonable search and seizure. "Justice Department officials testified that electronic mail was similar to regular mail and that the same search warrant procedures should apply" (Regan, 1995, p. 133). The only exception should be when the university needs to enter a student or faculty's account to repair system networks and links. Should a university fail to observe this policy, they should understand that they are likely violating a person's Fourth Amendment rights. "It will be necessary to exclude others from one's computer if the courts fail to recognize some societal expectation of privacy in computer data" (Sergent, 1995, p. 1226). As the three-judge panel states in its decision on the Telecommunications Act of 1996, electronic communications demand the "highest protection from government intrusion" (DeLoughry & Young, 1996, p. A17).

Constitutional Protection. Student affairs professionals need to understand the legal issues that surround electronic communications. Understanding the Fourth Amendment and the notion of a reasonable expectation of privacy are paramount in this issue. By maintaining policies that demand warrants for search and seizure of computer data, except in defined areas that are not protected, student affairs administrators will avoid potential suits in the future. Additionally, institutions need to be careful not to restrict protected speech placed on home pages. Should regulation be salient to the institution's mission, the only sort of controls are through time, place, and manner restrictions. Therefore, institutions should resist the temptation of creating a "hate speech" code for electronic communication such as the example in *UWM Post v. Board of Regents of University of Wisconsin System* (1991). In this case, the University of Wisconsin had created a policy in its diversity statement prohibiting epithets directed at other individuals. The end result was that the policy was found to be unconstitutional because it was over

broad and hence violated students' First Amendment protections. This case provides a rationale to describe why any specific policies that are tailored to restrict speech via electronic communications will be futile. The connection this creates with a student's right to privacy should be noted as it reminds administrators to remove themselves from the Pandora's box that electronic communications and privacy represent.

Electronic Communication as Inherently Public. While an institution should do everything possible it can to protect a student's privacy, any user should understand that electronic communications are not guaranteed to be private. Occasionally, hackers have been able to get into accounts in order to look at another's e-mail and/or private communications. In these instances, the institution cannot expect to be legally responsible. As a courtesy, the institution should assist any student who has had their account "broken into." This statement does not mean that the institution is allowed to 'hack' into anyone's computers, much less their private computer files. Students and faculty should be aware that, as they log into different Web sites, the likelihood of tracking is high. "Unlike library records that show which book a person checked out, Internet records can, in effect show which pages of those books the individual has looked at" (Wilson, 1995, p. A17). Therefore, the user should be aware of instances in which they may face public humiliation, harassment, or damage to their career if some tracking information became public.

Tracking. Tracking occurs with many Web pages in order to either collect information on the people that use the page or to sell information about the users to outside organizations. In order to maintain the highest possible level of privacy, eTRUST, a non-profit organization, has developed a set of standards that could assist higher education in protecting the privacy and anonymity of its students. The plan calls for three simple icons to be posted with all web pages. A closed-eye icon would indicate a page which does not collect any information from visitors. A half-opened eye would mark a site which collects information only for internal purposes. An open eye would indicate a page which sells user information to others (Young, 1996). The goal behind this proposal is that the institution would be conveying to the user to what extent he or she should expect privacy at the site. Of course, this only could exist for Web pages affiliated with the institution. Therefore, the user should not expect sites outside the institution to be private and to not collect information.

Copyright Violations on Web Pages. Currently, many institutions face legal challenges by copyright owners who have threatened lawsuits against students maintaining copyrighted materials on their home pages. Copyright challenges are coming from a variety of sources including the publishers of *Playboy* and the marketers of *Dilbert*. As a result of the challenges, many institutions have begun to take some drastic steps to prevent

lawsuits. In the same instance, some claim institutions are avoiding the issue by eliminating home pages without a proper investigation into the claims (Blumenstyk, 1996). Institutional policy should articulate that all home pages are the responsibility of the individual who created the page. "The policies should state that all other institutional policies- for instance, those concerning intellectual honesty, theft, and civility- are applicable to use of the Internet" (Detweiler, 1996, p. A40). In addition to articulating institutional policies, the institution should articulate all laws that apply to their home pages as well.

CONCLUSION

The issue of privacy is a much debated one, particularly as we attempt to redefine the parameters of an individual's right to privacy within the realm of new technology. It is important that as administrators of higher education institutions, the issue of students and their privacy rights does not become seriously compromised as institutions are faced with challenges related to advanced technologies. Students should not have a lessened expectation of privacy solely because of their student status. It is imperative that the interests of students are kept in the forefront of the minds of those who are in a position to control and maintain the protection of their rights.

This responsibility will be quite a challenge as both the technologies and the technology users become more and more sophisticated, yet this should not outweigh a person's right to privacy. It will be critical that institutions redefine their commitment, and their responsibility to provide some level of individual privacy for those who frequent their campuses. It is imperative that institutions do not create an environment in which the nightmarish projections of George Orwell's *1984* (1949) are a daily reality. There is much that administrators can do to protect those rights and it will depend on them to maintain what little personal privacy students have today. Essentially, they must find the balance between a student's right to privacy and the government's and institution's interest in limiting students' privacy rights.

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College athletics is confronted with critical and variable decisions. There is a need for greater awareness of the educational significance of intercollegiate athletics, since participation can influence strongly the growth and development of student athletes throughout their lives.

Views From The Student Affairs' Bleachers: Academics, Financial Assistance, and Title IX Legislation in Intercollegiate Athletics

Dr. Mark S. Denke

INTRODUCTION

As the term indicates, intercollegiate athletics is a component of many educational institutions. Consequently, it should be educational in nature. Organized sports, sponsored by colleges and universities, and conducted with educational outcomes in mind, will contribute to the total development of the individual, provide opportunities for fun and growth, and furnish experiences from which much can be learned about American culture. The first priority of any program should be the welfare of the student athlete (Thelin, 1994). Athletic programs should be conducted in the spirit of the rules for the greatest benefit to the largest possible number of persons.

Commercialism in college athletics must be diminished and university sports must rise to a point where it is esteemed primarily and sincerely for the opportunities it affords to mature youth under its responsibility. The American college and university must renew within itself the force that will challenge the best intellectual capabilities of the undergraduate (Sperber, 1990).

HISTORY IN THE UNITED STATES

College athletics have evolved much since the rowing crew days at Harvard and Yale in 1852. There were no paid coaches in those days, no large crowds, no scholarships, and many of the rules were created on the spot (Brubacher and Rudy, 1976):

As college sport became a big business, a number of practices arose which were, to say the least, questionable. Many of these were introduced by overzealous alumni, eager for victory and bent upon 'booming' their alma mater. The 'tramp athlete' and his cousin, 'the ringer,' made their appearance as able players, canvassed the colleges and enrolled at those institutions willing to award them the most lucrative scholarship. Graduate students, even coaches, played on some teams along with the undergraduates. Many coaches found that retention of their position depended upon winning games, whether by fair means or foul. In addition to all of the foregoing, large-scale betting on college games began to pose serious problems. (p. 132)

Intercollegiate athletic programs at first were opposed, later tolerated as a necessary evil, and then recognized as an integral part of an educational enterprise. Originally, most of the management and coaching was handled by faculty and students. Intercollegiate competition developed out of undirected play and intramural sports. In colleges and universities, undergraduate leadership soon was replaced by voluntary supervision by graduates and, finally, by salaried coaches. As expenditures for interinstitutional sports increased, the practice of charging admission at the gate was introduced. During the final two decades of the nineteenth century, most of the evils of intercollegiate athletics took root because faculties had ignored athletics in one of its most critical periods, its period of greatest growth. Then, colleges and universities took a position of vigorous opposition to athletics, but much of the damage already had been done. College administrators, realizing it was inadvisable to abolish college sports, made an effort to control them (Brubacher and Rudy, 1976).

The National Collegiate Athletic Association (NCAA) was formed in the early 1900s. The alarming number of injuries and the lack of national control of intercollegiate sports led to a conference of representatives of universities and colleges. Preliminary plans were made for a national body to assist in the formation of sound requirements for intercollegiate athletics and the name of Intercollegiate Athletic Association was suggested. On December 29, 1910, the name of the association was changed to National Collegiate Athletic Association (Fleisher, Goff, and Tollison, 1992). The purposes of the NCAA

are to uphold the principle of institutional control of all collegiate sports; to maintain a uniform code of amateurism in conjunction with sound eligibility rules, scholarship requirements and good sportsmanship.

ACADEMICS

Intercollegiate athletics are an important part of the educational program of our American colleges and universities. Higher education administrators are becoming increasingly concerned about how best to conduct their intercollegiate athletic programs on a sound educational basis in light of ever increasing student, alumni, and community interest. As Chu (1989) describes:

To academics in the United States, the relationship between institutions of higher education and intercollegiate sport may be simultaneously a source of pleasure and of embarrassment. For them, it may be a curious question requiring study, or they may see matters athletic as of little significance, only meriting attention occasionally because of some extraordinary event such as a bowl appearance or a 'Big Game.' I believe it is fair to say, however, that most in the academic world are affected in some way by the tradition of sport that has developed at American college and universities since the late nineteenth century. In the public mind, college populations may be less scholars and professors than Buckeyes, Trojans, Sooners, or Hoyas. To students, the concerns of the game, the pep rally, or practice may take easy precedence over classes, laboratories, or papers. (p. 1)

When athletics and academics conflict, University presidents cannot compete with the wishes of boards of trustees, state wide boosters, and alumni. John DiBiaggio, past president of Michigan State University, was forced to leave his position after the Board of Trustees overruled his decisions concerning the status of the University's football program. "At some institutions the alumni are fiercely loyal because of a school's athletic achievement rather than its academic prowess; and the trustees at some institutions are more interested in where seats are located than what is going on at the institution" (Naughton, 1996, p. A37).

The standards for athletics need to be stated clearly. There should be no doubt in any educator's mind as to the types of intercollegiate programs that are educationally sound and in the best interests of students who participate in them. Intercollegiate athletics, like all educational endeavors, should be concerned with intellectual development and academics, as well as with physical outcomes. In the early 1980s, under intense pressure from college and university presidents, the NCAA voted to tighten academic standards for

students participating in intercollegiate sports (Fleisher, Goff, and Tollison, 1992). Proposition 48 provided new regulations to determine athletic eligibility to play at an NCAA Division I institution. In a letter to the editor in *The Chronicle of Higher Education* (1991), Richard Schultz, Executive Director of the National Collegiate Athletic Association wrote:

The reconciliation of academics and athletics is a decision that must be made at each individual institution. It requires the cooperation of many constituencies at each of those institutions. Alumni and boosters must relieve the pressure placed on an institution's administration to produce a 'winning' program. Faculty members must not allow academic abuses to occur. College presidents must be given the authority to run the athletics departments as they see fit — within the framework of those institutions. (p. B3)

Schultz (1991), in his letter, responds to complaints that it is the NCAA's fault that abuses occur at colleges and universities because of excessive rules the Association enforces. As he states: "hundreds of institutions quietly and without fanfare reconcile the aims of athletics and academics because each college and university — not the association to which it belongs — controls its own destiny" (p. B3). Colleges and universities do not need the NCAA to prevent abuses in intercollegiate athletics on individual campuses. Many evils associated with athletics stem from a tendency to regard athletes as a privileged class. Abuses can be controlled by our institutions without much outside assistance from the NCAA if serious violations are punished.

With the tremendous popularity of intercollegiate athletics, a great deal of responsibility rests on those who administer the programs. It is possible to eliminate the ills and evil influences of intercollegiate athletics when administrators are willing to recognize that these activities are only one part of an institution's educational program. As Bailey and Littleton (1991) stated:

There are many reasons for the lack of effective control of abuses in college sports. Perhaps the most important is the failure of the leadership of higher education to recognize the seriousness of the problem and the fact that over the past century control has often been directed more toward treatment of the symptoms than to the fundamental causes of the malady, a phenomenon almost universally characteristic of reactions to clinical experience with an illness. (p. ix)

FINANCIAL ASSISTANCE

Should athletes receive scholarships or "special" financial assistance?

This subject is argued continuously and is a towering problem at colleges and universities. Those in favor of scholarships and financial assistance claim that a student who excels in sports should receive aid just as one who excels in music or any other subject area. They claim that such inducements are justified in the educational picture. Those opposed point out that scholarships should be awarded on the basis of the need and general academic qualifications of a student, rather than skill in some sport. One solution could be to create a list of criteria for making grants and to have them handled by the Financial Aid Office without athletic department interference. This plan is based on the premise that scholarships and student aid should not be granted by any other department, including athletics. Financial aid should be handled on an institution-wide basis and it should be given to students who need them most and are best qualified (Salter, 1993). In this way, those students who are in need of assistance, regardless of the area in which they specialize, will be the ones who receive aid.

It was widely anticipated that the 1991 NCAA convention would enact landmark reforms in college athletics. It was thought that university presidents and academic administrators would take control of the destiny of college athletics away from coaches and athletic directors. From the analytical viewpoint of this author, the 1991 convention produced superficial rather than substantive changes. (Fleisher, Goff, and Tollison, 1992, p. 156-157)

Some decisions affecting financial assistance and scholarships to student athletes either were rejected or never brought up for a vote. Some minor changes included a ten percent reduction of scholarships, the prohibition of summer scholarships for incoming freshmen, and permission for Division I-A schools to set their own financial aid standards. These measures hardly would be considered a serious commitment to financial aid reform. "Financial aid should be based on need and merit only, and have that aid issued from the financial aid office, not the athletic department" (Salter, 1993, p. 103). When we look at financial aid operating philosophy, it seems the Ivy League Universities have the right perspective and lead the way. The Ivy League is planning a study to ensure that the leagues participating Universities are auditing the way financial aid is awarded to athletes. The intent is to prevent athletes from getting extra financial benefits as an incentive to enroll (Blum, 1996):

The Ivy League prohibits sports scholarships. Instead, athletes — like all students — are awarded packages of grants, loans, and work-study opportunities based on their financial need. Among other things, the audit will determine whether athletes are being offered financial-aid

packages that exceed their need or that are more attractive than those offered to non-athletes with similar financial profiles. (p. A52)

TITLE IX

Today, there is considerable emphasis on women's athletic competition in colleges and universities. Traditionally, women have suffered in many intercollegiate athletic programs. In some cases they, at times, have been subjected to using poor equipment and facilities as well as experiencing the lack of financial support. The women's movement and other proponents of equality in women's sports, in addition to Title IX, have altered the concept of women's sports in recent years. Women are becoming more accepted as athletes, entitled to experience all types of sports activities. Many persons wrongly interpret this kind of statement to mean that women want to compete with men in all sports activities. Although women may compete with men in certain co-educational activities, they also want separate but equal athletic programs, including equal funding, equipment, and facility use (Thelin, 1994).

Title IX, a law passed in 1972, makes sex discrimination illegal in all educational institutions that receive federal funds. The law prohibits discrimination in the following areas: general admissions, counseling, selection of courses, financial aid, housing, dining and other campus facilities, scholarships, student health and insurance benefits, athletic programs and recruitment, vocational education, and employment. However, the section of Title IX calling for equal opportunity in athletics by far has stirred the greatest controversy (Vargyas, 1994). Title IX states: "No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate club, or intramural athletics offered (by colleges and universities that received Federal funds), and no recipient shall provide any such athletics separately on such basis" (Vaulthorn and Seils, May, 1980, p. 22).

An institution must provide a selection of sports and a level of competition that effectively accommodates the interests and abilities for members of both genders. Institutions must provide comparable equipment and supplies, travel and per diem allowances, opportunity to receive coaching and academic tutoring, publicity, scheduling of game and practice times, scholarship aid, medical, housing, and dining facilities for both genders (Vargyas, 1994). Indeed, the most important reason why Title IX became law was to prevent sex discrimination in sports and athletic programs. The emphasis of Title IX is the creation of equal opportunity for both sexes. In order to determine if equal opportunity is administered, it is important to know whether the interests and abilities of students and others of both genders

have been met and whether things such as adequate facilities and equipment are available to both in each sport.

Each institution of higher education should have members of the academic and athletic staff coordinate a self-evaluation to ensure compliance. Athletic programs need to develop a statement of philosophy that serves as a guide for equality of opportunity for both genders. Forward-looking organizations recognize that equality is necessary, even more importantly, fair and appropriate, and when in doubt, they decide in favor of equalized opportunity and they make every effort to follow the full intent of the law. In December 1995, the Department of Education finalized regulations under a new law that requires colleges and universities to publish annual reports comparing their treatment of men's and women's athletics (Blum, 1995).

Today, women want to participate in intercollegiate athletics and institutions gradually are accepting this reality. However, myths pertaining to the inability of women to compete die slowly. Athletic administrators must be prepared to face charges of discrimination. The best way to do this is to furnish equitable opportunities for all interested students.

CONCLUSION

The relationship between academics and intercollegiate athletics is greatly challenged and questioned by educators, students, alumni, and legislators. Efforts must be made to improve and to increase the understanding of intercollegiate problems and potentialities and to stimulate fuller achievement of higher educational objectives in intercollegiate athletics. Dealy (1990) states it best:

Because games and athletics mirror human behavior, they serve as glimpses into the best and the worst in us. But college sports offer a far more important opportunity. College athletics reflect the personality and character of institutions of higher education, institutions that are supposed to symbolize truth and enlightenment. Although regrettable, it is one thing for hooliganism to tarnish the World Cup. But it is quite another thing for scandal to taint the University of Oklahoma. The former reflects badly on any Country's lowest class of people. The latter reflects badly on what should be America's best class. (p. 207)

American higher education is committed to a program of competitive sports and responsibility must be vested in this commitment. The premise of academic achievement must be preserved and the influence of athletics must be controlled. All educational programs must be established to accomplish desirable outcomes in and for the student athlete. If programs of

intercollegiate athletics are to play their part in the education and development of young men and women, educational leaders must establish definite and defensible administrative principles, policies, and procedures regarding organization, personnel, and academics.

If we do not attempt to plan and prepare for the future, when our students will have different expectations and goals, our ability to cope with change may be inadequate. Planning for the future will be a necessary ingredient of success in college and university athletic programs. Those administering these programs must seek to understand their impact on educational events and trends. Every educational institution should develop a philosophy for its athletic program. This philosophy should indicate direction, express purposes, and enumerate goals. All programs and curricula should be in reasonable harmony with the institutional philosophy. Intercollegiate athletics and education must be compatible.

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This article considers the role that institutions have played in generation and development of the values of students. The authors consider a historical perspective of colleges and universities, and their role in reflecting the values of society, and what legal perspectives need to be considered, such as the demise of in loco parentis. Finally, recommendations and observations are made for administrators and faculty to consider.

The Role of the University in the Development of Student Values; A Historical and Legal Perspective

Jennifer A. Hamilton and Jocelyn Lowry

INTRODUCTION

For a significant time in history, institutions took the idea of developing student values quite seriously.

It is enacted that all the heads, fellows, and scholars of all institutions, as well as all persons in holy orders, shall dress as becomes clerks. Also that all others (except sons of barons having the right of voting in the Upper House of Parliament, and also barons of the Scotch and Irish peerages) shall wear dresses of a black or dark colour, and shall not imitate anything betokening pride or luxury, but hold themselves aloof from them. Moreover, they shall be obliged to abstain from that absurd and assuming practice of walking publicly in boots.

It is enacted, that scholars of all conditions shall keep away from inns, eating-houses, wine-shops, and all houses whatever within the city, or precinct of the University, wherein wine or any other drink, or the Nicotean herb, or tobacco, is commonly sold; also that if any person does otherwise, and is not 18 years old, and not a graduate, he shall be flogged in public.

It is enacted, that scholars and graduates of all conditions are to keep away during the day, and especially at night, from the shops and houses of the townsmen; but particularly from houses where women of ill or suspected fame or harlots are kept or harbored, whose company is peremptorily forbidden to all scholars whatever, either in private rooms or in the citizens' houses. (William Laud, Archbishop of Canterbury and Chancellor of Oxford University, Laud's Code, a compilation of rules drawn up in 1636, as cited in Hoekema, 1994, p. vii)

The issue of values education in the university continues to be a very timely subject, and the topic of philosophical debate. As institutions struggle with changing populations, restricted budgets, and greater accountability for outcomes, educating values seems like a luxury that should be put aside in order to address more important goals. Some would argue that students need to be taught the basics, the types of skills that will get them jobs when they graduate. In an age of greater competition, the modern American university perhaps should be concerned with the more tangible and measurable tasks of academe.

On the other hand, institutions have historically fulfilled the role in society of preparing future generations to become productive, mature adults. Over 150 years ago, Ralph Waldo Emerson gave a lecture at Harvard, in which he concluded with the statement "character is higher than intellect" (Coles, 1995, p. A68). Is this assertion still true today? Somehow, whether it is due to the historical relationship with the clergy, or the higher calling of education, the American university has been regarded by society as a place where democracy, civility, service, and other noble values have been espoused by the academic community. As we head into the next millennium, with the nature of higher education facing inevitable change, what role do colleges and universities have in the development of student values?

This paper discusses the role of colleges and universities in the generation and development of student values. After defining the term "values", we present a general overview of how and where values are developed during a student's university experience. A brief history of how colleges and universities have recognized their role in developing student values is described. Then the emergence and decline of the *in loco parentis* doctrine is also examined. Policies outlining student rights and responsibilities, honor codes, student discipline, regulation of off-campus behavior and of course, the curriculum are all methods that the modern university has used intentionally or unintentionally to develop values in a student. We review the court decisions and of what legal issues colleges and universities need to be aware. Recommendations for student affairs professionals will then be made. Readers should ponder the questions: Does

the law shape our values or do our values shape the law? Along the same lines, do students affect the values of the institution, or does the institution develop student values?

VALUES DEVELOPMENT IN STUDENTS

The term “values” can be defined as “standards and patterns of choices that guide persons and groups toward satisfaction, fulfillment, and meaning” (Morrill, 1980, p. 62). The *Oxford Dictionary* defines values as “one’s principles or standards, one’s judgment of what is important in life” (1978, p. 1006). Values development for students will take place in different arenas as part of the developmental experience of being in college. A course, a role model or mentor, peer influence, a difficult decision, and a disciplinary situation are methods of establishing values development.

People may be uncomfortable with the idea that values are taught at school. Why should colleges and universities impose their values on students? Students often dismiss the values of an authority figure, upholding their own belief in maintaining autonomy and developing independence. Morality is often shrugged off by a disdain for the religious right or the politically correct. Instead, there needs to be an agreement about what “universal” values are important to emphasize in the education of young adults. Civility, responsibility, and appreciation of diversity are all values that could be construed as important to educators. According to Colorado State University, “principles of academic honesty, personal integrity, respect for diversity, and pursuit of lifestyles free of alcohol and drug abuse” are values that the institution embraces (Division of Student Affairs, 1993, p. 1). Articulating institutional values in a policy such as *Student Rights and Responsibilities* outlines the university’s commitment to protect the privileges and opportunities of the entire campus community. If higher education can somehow assist in the process of students’ development and their appreciation of these general societal goals, then student freedoms will not be violated.

The development of values is a process that occurs as part of the transition from adolescence to adulthood. Many students come to the university with a set of values learned from their parents, communities, and limited exposure to ideas in schools. A university environment poses challenges to their existing value systems. For the first time students have the opportunity to make difficult decisions about life choices. They have an opportunity to interact with students from different backgrounds and with differing ideas about what is right and wrong. Students also have freedom to make decisions for which they must be responsible. Thus, the institution needs to balance rules and policies that allow students the freedom to make poor choices, without those choices infringing on the rights and freedoms of others.

HISTORICAL PERSPECTIVE

Historically, and up until the early 1970s, educators in Europe and America sought to build the character of their students and they made this task their central preoccupation (Bok, 1990). The effort to instill moral character within the students was displayed during chapel services, presidential addresses, and other ceremonial occasions. Students were constantly reminded to live moral, godly lives (Bok, 1990).

Honor code systems were implemented at several institutions. Faculty and administrators believed that academic integrity was an irrefutable value that all campus community members should uphold. Codes varied from institution to institution. For several decades at the University of Virginia, students were instructed to follow a system which students administered and enforced. The students were held responsible by fellow students, requiring a willingness of students to abide by the system. Some examples of violating honor codes at this institution include lying, cheating, and stealing (Hoekema, 1994). Similar honor codes are still in existence at many colleges and universities today. They usually apply, however, to more academic related matters than general campus conduct. Academic integrity is considered to be one of the most effective vehicles for teaching moral responsibility (Nuss, 1996). Nuss also claims that an honor system is the proclamation and legislation of the intentions of a "community of persons united in mutual agreement" (p. 3). It is a strong statement which introduces the idea that values are the responsibility of the entire community, including students.

As time progressed, students began to change. During the late 1960s and early 1970s, student values began to take a shift. The idea of "me" seemed to emerge among students during the 1970s and 1980s. The "me" generation focused its central concerns around the material aspects of life (Bandalos and Sedlacek, 1987). The values of the "me" generation often conflict with colleges' and universities' traditional goal of developing a meaningful philosophy of life. While students are paying high tuition and expecting to get a job when they graduate in order to fulfill their desire for material satisfaction, how can the university justify spending time and money educating students to be "good people"? Educators may see the value in developing an affinity for lifelong learning and an appreciation for the balance between individual freedoms and group responsibility, but this may not be what students are ultimately looking for or paying for when they seek higher education.

In light of the history of colleges and universities and the slow demise of *in loco parentis*, the *Bradshaw v. Rawlings* (1979) case sets the precedent for student freedom. This case views the authoritarian role of today's college

administrators as being notably diluted in recent decades. Trustees, administrators, and faculty have been required to yield to the expanding rights and privileges of their students. The rights formerly possessed by college administrators have been transferred to students. "College students today are no longer minors; they are now regarded as adults in almost every phase of community life" (Hoekema, 1994, p. 177).

Another very current and distressing issue is the increase in behavioral problems and lack of civility among traditional age college students.

"National trends and recent experiences at Colorado State University show an increase in disrespectful, disruptive, and even violent student behavior on campus" (Division of Student Affairs, n.d.). This problem is not simply confined to college campuses, but it also affects our broader communities. Colleges and universities struggle with these issues in daily interactions with students in the classroom, in the residence halls, and in disciplinary hearings. The support for colleges and universities that see values development as an important educational goal is significant in the educational missions of these institutions. According to Sandeen, "whether values are taught formally in the curriculum or not, the attitudes, conduct, and beliefs of students have always been influenced by their institutions" (as cited in Dalton, 1985, p. 2).

THE ROLE OF THE UNIVERSITY

"Pursuit of a college education provides an opportunity for exploration of new ideas, experimentation, self-examination, formation of new friendships, and development of ideals and direction" (Division of Student Affairs, 1990, p. 1). This statement appears in the introduction of the *Student Rights and Responsibilities* policy at Colorado State University. It is clearly implied that this particular university does see itself as having a role in the development of student values. The role of the university in the development of student values is a complex and difficult issue. It has been pondered by scholars and administrators for decades, and seems to be of timeless concern. "The central problem of our age and our civilization is the deterioration of moral and ethical standards, a confusion in values" (Hadley, 1981).

Colleges and universities are struggling with the issue of whether they should be held responsible for student behaviors both on and off campus. The development of student values has been viewed as the responsibility of an institution once a student leaves home and goes to college. The challenges around this issue have been discussed in the courts and on campus. For instance, educators have discussed the morality of teaching certain values and whether the values should be taught by parents or educators has been discussed and debated (Moore & Hamilton, 1993).

Often, a student's values are challenged and developed by the

interaction with the university's discipline system. When we look at the disciplinary systems at our institutions, are we promoting values in our students or are we simply punishing them for breaking the rules? For example, the use of alcohol on or off campus is a serious disciplinary problem for institutions. The decision in *Beach v. University of Utah* (1986) states:

Institutions are educational institutions, not custodial. Their purpose is to educate in a manner which will assist the graduate to perform well in the civic, community, family, and professional position he or she may undertake in the future. It would be unrealistic to impose upon an institution of higher education the additional role of custodian over its adult students and charge it with the responsibility for preventing students from illegally consuming alcohol and, should they do so, with responsibility assuring their safety and the safety of others. (as cited in Hoekema, 1994, p. 183)

Furthermore, this case sets a precedent for institutions stating that "colleges and universities having to take responsibility for students would require an institution to baby-sit each student; which would be inconsistent with the nature of the relationship between the student and the institution, for it would produce a repressive and inhospitable environment, largely inconsistent with the objectives of a modern college education" (as cited in Hoekema, 1994, p. 183). In essence the court is stating that institutions can teach values by allowing students to experience freedom, and accept responsibility for their actions.

The role of colleges and universities in the development of student values has been in place since the development of the first institution. Values are transmitted through academic requirements, policies and procedures, admission standards, and interactions between students and faculty. These are a few examples of how institutions lay foundations for the expectation of value development in students (Sandeem as cited in Dalton, 1985). There are ethical issues involved with the institution becoming active in the development of values. The institution needs to be acutely aware of the uniqueness of its student community, and also of the changes in society at large. Some of the ethical questions outlined by Barr (1990) include:

How does the institution achieve balance between the individual rights of students and the need for group responsibility? How does an institution relate to the law in matters of student behavior? What are the responsibility and duty of the higher education community to protect a member from harming himself, herself, or others? To what degree can and should an academic community attempt to regulate the behavior of students when that behavior does not result

These questions can be the catalyst for college and university administrators to look at current policies, legal issues, and the problems facing their campuses.

“College and university officials know they are no longer ‘parents’ . . . [however], their responsibilities, both legal and moral, extend far beyond the classroom. The question then is how do [students] balance claims of freedom and responsibility on the campus” (Carnegie Foundation for the Advancement of Teaching, 1990, p. 1)?

THE DEMISE AND REBIRTH OF IN LOCO PARENTIS

How does the university assist in the development of student values without reverting back to *in loco parentis*? Hoekema (1994) notes that four legal elements determine the custodial relationship between the university and students; 1) a broad authority to direct student behavior, 2) the authority to punish for infractions of rules, 3) a special responsibility to care for students, and 4) a legal exemption from due process in carrying out disciplinary procedures. The first three rules are still largely true today. The notion of a return to the doctrine of *in loco parentis*, however, is both undesirable for the courts and university officials.

In loco parentis originated in English common law and it recognized that a parent delegates part of his or her parental authority to school personnel while the child is in their custody and for purposes consonant to the school setting (Edwards, 1995). Since the deterioration of *in loco parentis*, colleges and universities have removed many restrictive controls on students. For example, as demonstrated in *Anthony v. Syracuse University* (as cited in Kaplin and Lee, 1994, p. 6) institutions could expel a student for not being a “typical Syracuse girl.”

Today, undergraduates enjoy almost unlimited freedom in personal and social matters. When students challenged the old policies of restrictions and control, students and administrators were left questioning their roles, their authority, and their relationships with each other. “No new theory of campus governance emerged to replace the old assumptions” (Carnegie Foundation for the Advancement of Teaching, 1990, p. 5).

Although the authority of college and university administrators had forever changed, much confusion was left in the minds of students, parents, and community members. The shift toward an unfettered climate was not understood or accepted either by parents or by the public. The assumption persists today that when an undergraduate goes to college, he or she will be cared for in some manner by the institution (Carnegie Foundation for the

Advancement of Teaching, 1990). *Campus Life; In Search of Community* recommends an approach in which community is a post-*in loco parentis* approach to dealing with modern problems on the campus. The values that were recommended for universities to develop community can be extended to apply to students as individuals. The values of campus community should be purposeful, open, just, disciplined, caring, and celebrative (Carnegie Foundation for the Advancement of Teaching, 1990). These new approaches to understanding the institution/student relationship from a community perspective rather than custodial perspective is the key to the generation of community values.

LEGAL ISSUES IN THE DEVELOPMENT OF VALUES

The law in its many forms is based on principles of protection of individual rights, ethical and humane treatment of persons, responsible actions, and the common good (Barr, 1990). The generation and development of values has not been articulated by a court as an issue that has been resolved or even addressed by legal means. However, there are instances in which the courts have become involved with a student/university relationship, and through this involvement in specific cases, one can interpret the related legal issues to the universities' role in the development of student values. Specifically, the protection of students' constitutional rights, the duty of an institution to protect its students, and due process rights of students are legal issues. As these issues are developed in various court decisions, one can infer the intentions of the courts regarding the role of the institution in developing values.

The law can be viewed as a *modus operandi* of instilling values in society at large, and is sometimes a vehicle for social change. Often times, legal involvement to enact change is seen as a last resort when individuals or groups are trying to seek results. Students have sought legal solutions to protect their constitutional rights when an institution's policies or procedures have violated those rights. Parents and students have also sought legal relief when they felt that the university did not do enough in protecting students. These instances can be used to understand how the law has become involved in the university's role in the development of student values. The courts have determined that there is a very fine balance between the interests of protecting an individual's rights and what policies may be in the best interest of the institution.

Involvement of a college or university in the development of student values could perhaps further develop a "special relationship" between the institution and the student, therefore implying a further duty of care. In *Beach v. University of Utah* (1986), the courts determined that the university did not

have a special relationship with the plaintiff. The plaintiff was seeking damages for personal injuries sustained during a university-sponsored field trip when she fell from a cliff. Beach contended that the professor and the university breached affirmative duty to supervise and protect her. As seen in *Bradshaw v. Rawlings*, there was a time when college administrators and faculties assumed a role *in loco parentis*. "A special relationship was created between college and student that imposed a duty on the college to exercise control over student conduct, and reciprocally gave the students certain rights of protection by the college" (Hoekema, 1994, p. 176).

Further, the duty of protection relationship can be seen in *University of Denver v. Whitlock* (1987) where a student was injured while jumping on a trampoline at a fraternity house. The court said "in today's society, the college student is considered an adult, capable of protecting his or her own interests; students today demand and receive increased autonomy and decreased regulation on and off campus." The demise of the doctrine of *in loco parentis* in this context has been a direct result of changes that have occurred in society's perception of the most beneficial allocation of rights and responsibilities in the university-student relationship (*University of Denver v. Whitlock*, 1987, p. 60).

Excluding unusual circumstances which justify imposing such an affirmative responsibility, "one has no duty to look after the safety of another who has become voluntarily intoxicated and thus limited his ability to protect himself" (*Beach v. University of Utah*, 1986). Additionally, in *Hartman v. Bethany College* (1991) the court said, "It would not be consistent with [current] case law in this area to impose duty upon institutions to supervise their students when they leave the college campus for non-curricular activities. Regulation by the college of student life on and off campus has become limited. College administrators no longer control the broad arena of general morals" (p. 13).

The duty to protect and the generation and development of student values may not be directly related in a legal sense, but in terms of understanding how the courts see the student-institution relationship, understanding current and past case law in the area of duty and negligence is quite important. The tort of negligence is one with which more and more campuses are faced and the law is changing in this area regarding the institution's responsibility. This furthers the argument that there is some confusion among college administrators about what is really their role in imposing values, regulations, and controls on students since the *in loco parentis* relationship is not supported by current law.

An institution must understand previous legal decisions regarding student freedoms and constitutional rights and what the courts indicate is the institution's role in influencing students' values. The *Hartman v. Bethany College* (1991) case said college administrators no longer control the broad

arena of general morals. At one time, while exercising the rights and duties associated with *in loco parentis*, colleges and universities were able to impose strict regulations. Today's students vigorously claim the right to define and regulate their own lives. Another legal issue involves due process. The *Dixon v. Alabama State Board of Education* (1961) case decided that due process requires notice and an opportunity for a hearing before students can be expelled for misconduct at a state-supported institution. This case supports the notion that students should be treated like adults and have the opportunity to defend their actions (Hoekema, 1994). There became consensus and agreement that regulations for students could not be arbitrarily imposed. The only notion that was left in doubt was whether codes should be established (Carnegie Foundation for the Advancement of Teaching, 1990).

Issues of student speech have also been a method by which administrators have attempted to impose values on students. In case after case, however, the courts have upheld students' First Amendment rights. In *Tinker v. Des Moines Independent School District* the court stated "students don't shed their constitutional rights at the school house gate" (p. 736). The issue in this case is one that several colleges and universities are dealing with when student rights collide with the rules of school authorities.

RECOMMENDATIONS

One cannot ignore the historical role which institutions of higher education play in assisting with the generation of values, as well as the transmission of current societal values and standards. Let us not assume, however, that the student movements in the late 1960s assert the notion that student's individual rights outweigh any responsibility to the responsibilities of their communities. A fine balance exists between allowing an individual student to explore and question his or her values and maintaining order and responsibility in the community. Without returning to *in loco parentis*, where colleges and universities tell students what to do and how to act, institutions need to consider seriously their roles in generating student values.

To prevent legal distress, colleges and universities should keep policies and directives to students within the confines of protecting students' constitutional rights, and within the boundaries of protecting the educational community. This essential task is difficult for student affairs administrators, because in general, these professionals are good at thinking they know what is "best" for students at their institutions.

Values education and civility should be infused into every aspect of education. Professors, residence hall staff, student leaders, and campus administrators should be able to articulate the importance of individual rights and community responsibility into all programs. When professors discuss

complex issues in the classroom, such as poverty or peacekeeping missions, a commentary on values would be worthy. For example, when planning a program on alcohol education issues, why not discuss the students' values associated with the topic, and the concept that campus rules surrounding alcohol were developed to recognize individual rights and group responsibilities. Then integrate this discussion into the implementation of the actual program. Judicial procedures should include discussion of the importance of values and personal responsibility.

Rights and responsibilities documents, used more creatively, could aid in the planning of programs and discussion of institutional values. These policies, if adopted by students, could become the a contract between students and community. Administrators should take current rights and responsibilities documents and examine and develop policies to meet everyone's satisfaction. "Colorado State University expects students to maintain standards of personal integrity that are in harmony with the educational goals of the institution" (Division of Student Affairs, 1993, p. 1). Rights and responsibilities policies, if taken seriously by the entire student community, could replace the honor codes of the past.

Honor codes, as discussed briefly above, usually apply only to academic integrity. A rights and responsibilities policy, however, can go further in outlining the values of the institution and expectations of students. It is within students' legal rights and does not infringe upon constitutional freedoms. By formulating a general code of ethics and regulations, the university does not absolve students from accepting responsibility for their behavior. Rather, it reaffirms the principle of student freedom that is coupled with an acceptance of full responsibility for individual action and the consequences of action.

In conclusion, today's educational institution should attempt to instill values in its students. Values are developed by empowering students rather than repressing students, by fostering speech, rather than quelling speech, by treating students with dignity and respect in disciplinary situations rather than as bad children, and by encouraging understanding of community responsibility. Students need to learn that their actions affect fellow community members. For most students, values are developed by taking risks and making mistakes. Values are developed by experimenting and asserting one's independence. Values are developed by sometimes saying and doing the wrong things. Values are developed by living in an environment where people are free to debate differences of opinion. Values emerge by belonging to a community in which one develops an understanding of interdependence and understanding the responsibility each of us has as a common member. Values are not developed exclusively in the courtroom or even the classroom. Institutions need to go beyond teaching to be intentionally involved in

developing values. The study of moral philosophy does not necessarily prompt one to act in accordance with moral principles. How does one teach people to be good? What is the point of *knowing* good, if one does not keep trying to *become* a good person (Coles, 1995)?

Ralph Waldo Emerson worried 150 years ago about the same things that we worry about today. He was concerned with the limits of knowledge and the nature of a college's mission. "The intellect can grow and grow, in a person who is smug, ungenerous, even cruel" (Coles, 1995, p. A68). Coles remarked that universities were originally founded to teach students to become good and decent citizens, as well as broadly and deeply literate scholars. Recently the first mission was abandoned to concentrate on a driven, narrow book learning. However, a course of study should have the intent of making a connection between ideas and theories on one had, and on the other, our lives as we actually live them (Coles, 1995). As stated in *Baldwin v. Zoradi* (1981):

The transfer of prerogatives and rights from college administrators to the students is salubrious when seen in the context of a proper goal of post-secondary education—the maturation of the students. Only by giving them responsibilities can students grow into responsible adulthood. Although the alleged lack of supervision had a disastrous result to the plaintiff, the overall policy of stimulating student growth is in the public interest (p. 16).

Colleges and universities should look forward and be aware of their student populations, as well as issues that are facing the larger society. As we have outlined, the law has stated that institutions are no longer "in the place of the parents", however, we would argue that the role that the university or college plays in the generation and development of student values is perhaps "in loco community" or "in loco society". This approach may well be the direction towards which we should strive.

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This article discusses the similarities found in numerous developmental theories, especially the tendency for individuals to develop from a self-centered focus to a focus on their roles in society. The models of Lawrence Kohlberg and Abraham Maslow are used to illustrate these common themes.

Shifting Focus from Self to Other: A Comparison of Development Theories

Kristin M. Anderson

Over the last thirty years, student affairs professionals have adopted numerous theories in order to describe student development. These theories are used to explain racial and sexual identity, as well as moral, cognitive, and spiritual development among students. In his book, *Reform in Student Affairs*, Bloland (Bloland, Stamatakos, and Rogers, 1994) challenges the value of these innumerable theories. One of his many concerns is that “the field does not have a single student development theory; rather, it has multiple student development theories” (Bloland et al., 1994, p. 26).

The fact that student affairs professionals employ many different theories cannot be argued. They do not form, however, a disparate “hodgepodge of theoretical perspectives” as Bloland has stated (Bloland et al., 1994, p. 26). On the contrary, a thread of similarity winds through the various development models. Many models share a central theme, beginning and ending in similar ways. There is a common tendency for individuals to begin development with a focus on the self. In the early part of an individual’s lifetime, a person is not cognizant of the effects of his or her actions or decisions upon others. At the highest levels of development, theorists have identified a focus on the individual as a member of a society. Development theories often move toward increasing interdependence and complexity regarding an individual’s relationship to others and to society.

This pattern of development exists not only in models outlining

similar types of development, but also in those addressing a wide range of developmental topics including moral development (Gilligan, 1977; Perry as cited in King, 1978), cognitive development (Perry as cited in Smith, 1978), spiritual development (Fowler, 1976), racial identity development (handout), and sexual identity development (Coleman, 1982; Cass 1979). Although these models address distinct areas, using different language and following divergent paths, each originates and concludes in a similar manner. These parallels, however, do not discount the need for numerous theories. While each shares certain characteristics, each model is designed to address specific types of development or special populations.

The purpose of this paper is to demonstrate the similarities found in many development theories. The developmental models of Lawrence Kohlberg and Abraham Maslow will be used as examples. After outlining each model, they will be compared, examining transition from an egocentric focus to a focus on "others." Finally, the relevance these similarities have for practitioners and some practical applications will be offered.

TWO DEVELOPMENTAL MODELS

Lawrence Kohlberg (1984) proposed a cognitive-developmental model, which has since become one of the prevalent methods in tracing an individual's moral development. Kohlberg delineates six stages of moral development, which he groups into three levels. These are designated the Preconventional, Conventional, and Postconventional (or Principled) levels. Each level is defined by two stages (Smith, 1978). The stages represent qualitative changes in an individual's thought process and must be followed in an invariant sequence. Furthermore, each stage represents an entire underlying thought organization and integrates the levels that come before it (Kohlberg, 1984). Kohlberg (1984) notes that:

The direction of social or ego development is. . . toward an equilibrium or reciprocity between the self's actions and those of the others toward the self. In its generalized form this equilibrium is the end point or definer of morality, conceived as principles of justice, that is, of reciprocity or equality. (p. 9)

Let us examine more specifically how an individual moves from an egotistical focus to a level of reciprocity:

Level I- Preconventional

Stage One: Heteronomous Morality (Kohlberg, 1984). In this stage,

an individual follows rules only in order to avoid punishment. He or she does not take others' interests into account. Psychological repercussion is of no importance to him or her.

Stage Two: Individualism, Instrumental Purpose, and Exchange.

The individual's motivation to follow rules revolves around self interest. The individual recognizes that other people have interests as well, and may enter into agreements based upon equal exchange. In this case, the concept of right may be relative.

Level II- Conventional

Stage Three: Mutual Interpersonal Expectations, Relationships, and Interpersonal Conformity. At this stage, an individual follows rules in order "to be a good person in [his or her] own eyes and those of others" (Kohlberg, 1984, p. 174). The individual acts out the roles expected of him or her as brother, daughter, friend, et cetera. He or she is aware of others' feelings and attempts to understand others' thoughts and reactions when engaged in mutual relationships.

Stage Four: Social System and Conscience. The individual views himself or herself as a contributing member of society whose duty it is to uphold agreed upon laws. Individual roles are examined in the context of one's place in the social system.

Level III- Postconventional or Principled

Stage Five: Social Contract or Utility and Individual Rights.

Now, an individual is aware that others may adhere to other values or opinions and that these may be relative to one's social or cultural group. Kohlberg describes "a sense of obligation to law because of one's social contract to make and abide by laws for the welfare of all and for the protection of all people's rights" (Kohlberg, 1984, p. 175). The individual also struggles when moral and legal perspectives conflict and attempts to reconcile the two.

Stage Six: Universal Ethical Principles. At this point, the individual has established self-defined moral principles. Certain justice principles such as "the equality of human rights and respect for the dignity of human beings as individual persons" (Kohlberg, 1984, p. 175) are seen as universal. He or she has adopted these commitments as a basis upon which a just society may be built.

Abraham Maslow's development theory examines human motivation based on five levels of the Hierarchy of Needs Model: Physiological, Safety and Security, Love and Belonging, Self-esteem and Esteem by Others, and Growth needs (as cited in Goble, 1970). He proposes that "the human being is

motivated by a number of basic needs which are species-wide, apparently unchanging, and genetic or instinctual in origin" (as cited in Goble, 1970, p.40). Need satisfaction generally follows the proposed hierarchical order. Maslow remarks that the appearance of a new set of needs usually results from the satisfaction of a previous need (as cited in Wilson, 1972).

Several pre-conditions must be met before an individual attempts to pursue the next level of the hierarchy. These include "freedom to speak, freedom to do what one wishes as long as no harm is done to others, freedom of inquiry, freedom to defend oneself, justice, honesty, fairness, and order" (as cited in Goble, 1970, p. 42). If these conditions are not present, one may be restricted in his or her efforts to fulfill needs. Furthermore, an individual may not rise to the next need level unless he or she is adequately challenged, stimulated, and motivated to reach his or her potential.

Physiological needs form the base of Maslow's needs hierarchy (as cited in Goble, 1970). These are the most basic elements of human survival. Without them, one would become ill or die. They include, but are not limited to, food, drink, shelter, air, sleep, and sex. If these needs are not satisfied, a person will not be able to focus on needs which are not directly life-sustaining such as love or self-esteem.

Once one's physiological needs have been satisfied, an individual will seek to fulfill his or her safety and security needs. These needs are primarily emotional rather than physical. People seek "freedom from pain or fear" and strive to establish "a regular routine that will give a sense of a predictable, orderly world" (as cited in Wilson, 1972, p. 162). Most of these fears subside as one enters adulthood, but may take new forms such as fear of unemployment, the menace of criminals, or the unknown.

The need for love, affection, and belonging emerges next (as cited in Goble, 1970). Close personal relationships are essential if a person is to grow and develop further. This stage includes both giving and receiving affection, being accepted for oneself, and being able to drop defenses with certain individuals. The basic necessity for this type of interaction is demonstrated by numerous studies which show that newborns thrive if they receive affection and develop more slowly, or even die, if it is lacking (as cited in Goble, 1970).

Esteem needs follow the love and belonging needs (as cited in Goble, 1970). This category can be broken down into two types of esteem needs: self-respect and the respect of others. At this level an individual needs to feel accepted, appreciated, competent, and confident. He or she strives for a certain level of status and recognition. If these needs are fulfilled, an individual will be happy and productive. If not, he or she may become discouraged and experience feelings of inferiority and helplessness.

Finally, an individual must have numerous growth needs satisfied before achieving self-actualization (as cited in Goble, 1970). These values are placed on a higher level than the basic needs, but cannot exist without a solid

foundation of basic need fulfillment. They include perfection, honesty, justice, richness, beauty, and playfulness, among others. The attainment of these ideals leads to personal fulfillment and, finally, to self-actualization.

Once someone has reached self-actualization, he or she is better able to reach out to others for he or she has discovered the true self and achieved his or her potential. These people are better able to listen to and learn from others and to admit that they are not all-knowing. A self-actualized person derives joy from helping others and from others' pleasure. He or she perceives more unity or potential for unity in the world. Furthermore, self actualized people are more able to accept others regardless of "race, creed, class, education, political, belief, or color" (as cited in Goble, 1970, p. 31). These are people who have evolved from the selfish fulfillment of basic needs to a more universal and other-oriented outlook.

COMPARATIVE ANALYSIS

Before commenting on the similarities of these two models, it is necessary to distinguish their differences. Several very obvious differences do exist. One first notes that these two models do not even address the same type of development. Kohlberg's Cognitive-Developmental model examines what factors motivate individuals to follow rules and to make ethical decisions at various stages of their lives. As explained above, these range from punishment and law to a social contract. Maslow's Hierarchy of Needs, on the other hand, is more broad. This model examines motivation, but could be applied to many areas of individual and social life and to human behavior in general (as cited in Goble, 1970). Individuals following one of these models would proceed upon very different paths.

Many of the contrasts relate to how the model "looks." For example, when expressed in drawing form, Maslow's Hierarchy of Needs resembles a pyramid. Basic needs form a large base and self-actualization is represented as a small point on the top. Kohlberg's model could be represented as stair-steps, with Preconventional Stage I on the bottom, moving upward to the last stage of the Postconventional Level. It could also be represented as a continuum. Obviously, these two models are physically very different. In addition, they employ different types of language. Not only do they use different words, but also different terminology. Kohlberg's vocabulary has a scientific feel and indicates much experimentation and analysis. Maslow, however, uses simple vocabulary. He seems to function at a concrete human level rather than the more theoretical level of Kohlberg.

Despite these outward differences, the basic themes of these models and many others are remarkably similar. Numerous comparisons may be drawn on several levels. Both Kohlberg's and Maslow's models follow

invariant sequences. An individual cannot reach the Postconventional Level of decision making based upon a social contract if he or she has not yet passed through the Conventional Level. Similarly, a person will not be concerned about justice or beauty if he or she is struggling to find the next meal. In both models, each level builds upon its predecessor. An individual may remain in each stage for an undefined period of time, or may never move to the next. Without the necessary stimuli, however, he or she might never move on to the next stage. For example, in Maslow's model, it is possible that an individual may never achieve self-esteem, and therefore, never reach self-actualization. Some people, such as adolescents or criminal offenders, concerned only with getting caught, have not yet broken away from Kohlberg's first stage.

In both models, the individual is greatly affected by outside factors. These may include physical or geographical location, the individuals in their communities, or personal and cultural history.

Different types of outside stimuli are necessary for transition to the next level. An individual's perceptions need to be challenged if development to the next stage is to occur. Creating a sufficient cognitive conflict or challenge to create a structural disequilibrium is necessary for development. Too much conflict, on the other hand, may create a situation that would retard development. (Smith, 1978, p. 59)

Without challenge and support, individuals, like those mentioned above, do not have an impetus to evolve.

The most important similarity, however, is also the most subtle. The essence of these two models, and many others, is the evolution of the individual. Both Kohlberg and Maslow describe their first level in a similar manner. Individuals fitting these categories can be described as self-centered or egotistical. Their motivations stem from efforts to protect their self interests.

In the first stage of his Preconventional Level, Kohlberg cites the fear of punishment as a basis for moral decision-making (Kohlberg, 1984). For example, a child might refrain from taking a cookie without asking, if he or she is afraid of being sent to his or her room. In this case, avoiding repercussions is the single reason for following rules. The result of one's actions on others does not even enter into the decision-making process. Kohlberg states that these individuals have "not yet come to really understand and uphold conventional or societal rules and expectations" (Kohlberg, 1984, p. 173). For them, "rules and social expectations are something external to the self" (Kohlberg, 1984, p. 173). People in this stage relate to society from an isolated, individualistic perspective.

As previously described, the first level of Maslow's hierarchy focuses

on physiological needs (as cited in Goble, 1970). These types of needs are profoundly self-centered. Without their fulfillment, a person literally could not survive. Maslow states that “for the man who is extremely and dangerously hungry, no other interests exist but food. He dreams about food, he remembers food, he emotes only about food, he perceives only food, and he wants only food...” (as cited in Goble, 1970, p. 37). In this scenario, the individual is unable to invest his energy into anything other than his own, basic, physical needs. The possibility of finding joy in helping others is unimaginable. This person is isolated and unaware of his or her part in a larger society.

In many models, the paths of development diverge after the initial stage. Different types of elements, such as motivation to follow rules or the fulfillment of needs, are emphasized in the various developmental models. Interestingly enough, however, these dissimilar paths progress in the same general direction. In numerous developmental models, regardless of type, the individual moves from focus on self to focus on others from independence to interdependence, from indifference to concern, and from narrowness to broadness. Eventually, the paths converge again at the final stage of the models. At this point, the individual is able to focus on others, and the significance of his or her role as a member of society emerges. These patterns can be identified in many theories, including those of Kohlberg and Maslow.

In his Cognitive-Developmental Theory, Kohlberg (1984) traces the individual's moral evolution as he or she begins to understand the impact of his or her actions on others. He or she also begins to view the importance of laws at different levels. At the highest stage in this model (Level III, Stage 6), the individual achieves an outward orientation, and acknowledges his or her responsibility as a member of society. These people can identify a “moral point of view” (Kohlberg, 1984, p. 180) which centers around “universal ethical principles of justice” (Kohlberg, 1984, p. 182). The social contract is an important element of this stage, as individuals avoid actions that would conflict with others' rights.

Maslow's model culminates in an individual's self-actualization (as cited in Goble, 1970). This person has reached his or her potential and is now happy and well-rounded. Because all of his or her basic and growth needs have been met, the individual is able to focus on others. Maslow notes that these people “have a great desire to help the human race” (as cited in Goble, 1970, p. 34). They derive great joy from helping others and can benefit from others' happiness. The possibility of a unified world is central as well. They also form deep and lasting friendships. They are able to appreciate individuals regardless of the other's background or physical attributes. Their self-actualization results in the ability to focus on the other.

After completing a side by side analysis of the two theories, it becomes evident that they do indeed follow divergent paths. The paths,

however, possess the same central themes and eventually conclude at the same place. These two theories and many others outline an individual's growth from focus on self to focus on others.

RELEVANCE

Now that the similarities between the basic premises of many development theories have been established, one may ask what significance this holds for practitioners. This knowledge of the development process is so basic that it could be used by practitioners on a daily basis. The knowledge that many theories share important commonalities can be used in understanding the students with whom one comes into contact.

Familiarity with this concept will help student affairs professionals comprehend the basic psychology and development of students. Those engaged in student affairs will also be more successful in their programming efforts if they understand and can identify the development of the larger populations with whom they work. A program that addresses developmental levels which are too basic or too advanced will not be well received and will accomplish little. It may even cause damage by discouraging bored students from attending future programs. Keeping the developmental evolution of students in mind may save much needless work and frustration.

The awareness of a student's progress in the various developmental models can help practitioners stay focused on their broad goals as they work with students. The understanding of where a student has been already and where a student is heading developmentally can be of assistance when dealing with personal issues, roommate conflicts, or discipline cases. They will have a better comprehension of students who engage in unacceptable speech or behavior, and will be better equipped to encourage the student toward the next level of development. This, too, may assist the professional in achieving successful results.

It is important to note, however, that the similarities between developmental models do not suggest that they are interchangeable or that theories dealing with specific populations should be discounted. The numerous theories dealing with moral, cognitive, spiritual, racial, or sexual identity development are important in establishing validity for the experiences of specific populations. Even though commonalities exist among their respective paths of development, each population is experiencing its development in light of its own cultural history. An example of this would be the Ethic of Care Model which was created by Gilligan (1977) as a response to Kohlberg's developmental model. She felt that his theory was not inclusive of women and developed a model that was more applicable. Knowledge of specific theories can be extremely useful to the practitioner, especially when

dealing with a population with whom they are not familiar.

CONCLUSION

After performing a side-by-side comparison of these two theories, it becomes evident that they share a common theme. While they are dramatically different in development type, path of evolution, and language, similar elements may be found in both models. Kohlberg and Maslow each begin tracing development by identifying an early focus on the self. As an individual matures, he or she commences to broaden his or her concerns and to be more considerate of others. During the last phase of development, the person more fully appreciates the need to act in the interests of others and of society as well as his or her own interests. This pattern can be identified repeatedly in numerous developmental models, regardless of development type. The existence of this pattern, however, should not act to devalue the use of multiple developmental models. While it is important to recognize overall themes, it is also important to affirm the need of specific populations for models with culturally specific focuses. The combination of general and specific knowledge of student development theories can greatly enhance the ability of student affairs professionals to serve their students.

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This article examines the relationship between service learning and leadership development. The author assesses the current programs at the Community College of Denver as well as the impact service learning has on leadership programs.

A Service Learning Approach to Leadership Development

Kris Binard

INTRODUCTION

As leadership programs continue to develop around the country, program coordinators need to determine what should be included in their leadership proposals. A model to consider is the Community College of Denver (CCD) in which service is a component common to each of the leadership programs. Students who are involved with a club or organization, the Leadership Development Class, or the Monumental Opportunities through Vision and Empowerment (MOVE) Leadership Program must complete a community service project.

Service learning at CCD was created to enhance the student experience through the integration of academic study and service in order to encourage civic involvement, community service, and responsible leadership. The Commission on National and Community Service (1990) states that service learning “provides a student with opportunities to use newly-acquired skills and knowledge in real-life situations in their own community.” Billingsley (1995) contends that service learning within a leadership training program instills a sense of civic value through active involvement in the community. By providing leadership opportunities, community based projects give students hands-on experiences with their leadership skills. Gardner (1987) recognized the value of community based experiences as providing opportunities for students to test their judgment under pressure, to exercise responsibilities, to test their intuitions, to expose themselves to new cultures, and to expose them to the reality of problem solving. Furthermore, Astin

(1990) related students' involvement and values to their degree of commitment to community service. As students become involved with community activities, they become vested in their community.

The Office of Student Life and Activities at CCD has organized each of its leadership programs with a service learning component. Three general areas of leadership development that students can become involved with at CCD are:

1. Leadership Development Class (Psy 295)
2. Monumental Opportunities through Vision and Empowerment Leadership Program (MOVE)
3. Clubs and organizations (including student government)

Through each of these programs, students must complete at least ten hours of organized community service. The Office of Student Life and Activities and the Service Learning Office offer assistance to students who want information about community agencies. Although each leadership development area requires community involvement only the class and the program include reflection.

The clubs and organizations must complete ten hours of community service as a team but are not required to discuss their experiences formally. However, in the leadership class, the students must write journal entries about their experiences as a part of their grade, and in the leadership program they must complete a reflection essay. In both cases, the students have formal and informal opportunities to discuss the leadership skills they have learned from their experiences in the community.

WHAT IS SERVICE LEARNING

The Community College of Denver has a Service Learning mission that encourages the integration of community service and academic instruction, with careful inclusion of critical reflection including journals and essays. Community service is different from service learning in that it allows the student to become involved with his/her community but does not include structured reflection.

There are four groups of participants involved with service learning in the classroom as well as in a leadership program. These include the student, the faculty or staff facilitating the program or class, the community agency, and the Service Learning Office (if applicable). The faculty or staff connects the service experience and teaching objectives through reflection as essays, journals, or discussion. The community agency identifies a service need and supervises the student. The Service Learning Office links the student to the community agency and the student provides the service and learns from the experience.

LEADERSHIP PROGRAMS INVOLVING SERVICE

As mentioned previously, there are three leadership programs that directly link service learning and leadership at the Community College of Denver. These programs are the MOVE Leadership Program, the Leadership Development Course, and clubs and organizations.

The MOVE Leadership Program was designed to allow students to engage in a series of leadership activities. Students are nominated by faculty and staff as well as asked to fill out an application of intent. Ten to fifteen students are chosen to participate in this program during the spring semester. The students must attend eight leadership skills workshops or seminars, complete ten hours of community service and write an essay about their experience, visit a business in the community, write an essay on leadership, and complete an exit interview. In April the students receive an award from the president of the college for completing the program. The Office of Student Life and Activities, using the essays and interview, choose two students to attend a leadership conference. In the past, students have also presented information at the conference.

The Leadership Development Class includes readings, exercises, group presentations, films, and speakers. The students must complete ten to 20 hours of community service and complete eight journal entries which reflects their service experience as it relates to leadership. Throughout the semester students discuss different topics of leadership. These include: leadership philosophy, followership, articulating a vision, leading with goals, building trust, creativity and logic, leadership and ethics, conflict management, time management, empowering others, citizen leadership for a diverse society, and initiating change. These 12 topics are used throughout the class to discuss leadership and how it relates to service and social responsibility.

The clubs and organizations are different in their service activities. Although every club and organization is required to complete ten hours of community service, students are not required to participate in reflection exercises. However, the club members are encouraged to attend a reflection luncheon facilitated by faculty and staff where they can discuss their community service experiences.

ASSESSMENT

After completing one of the leadership programs, the students were asked to fill out a survey to assess their service learning experience. There

were a total of 48 students who participated in the assessment. The following questions specifically addressed their service learning experience. The questions asked and their responses are presented below:

1. I think the Service Learning requirement is a valuable part of the program.
100% strongly agree
2. I think ten hours of community service is a fair amount to commit to a community project.
20% slightly agree, 20% agree, and 60% strongly agree
3. I think I will continue to volunteer with my community service agency.
20% slightly agree, 60% agree, and 20% strongly agree
4. I thought the service learning was not effective.
20% disagree, 80% strongly disagree
5. I thought the service learning was a valuable learning experience.
20% disagree, 20% slightly agree, and 60% strongly agree.

(Exit interviews with the students who disagreed indicate that although they did not agree with the process of requiring service learning for a grade, they felt the experience had a positive effect on their leadership training.)

Using the students' journal articles and essays, the positive results of the service learning component were evident. Here are just a few of the comments made by students who completed one or more of the programs.

"Another activity that remained on my mind was the service to community. I participated in the Safehouse project. I was skeptical about doing this at first since I had never been to one before. I felt that I would like to do this again another day. It felt good to know that I along with others did something to help someone else. I really like to do hands on things, so maybe we should do more of these activities where we actually go into the community and experience doing something." (MOVE Leadership Program participant, volunteered at the Denver Safehouse)

"I've never been much on trying to listen to 'opposition.' Here I don't have to really, but in a leadership position I definitely would give both sides their time to speak and try to listen with an open mind." (Leadership Development Class participant, volunteered at Planned Parenthood)

"For the kind of organization the Three Bears Learning Center is, this staff is a group of excellent leaders. I was willing to do anything asked of me because I wanted to follow their lead. This experience was a great example of an ideal leadership style. I believe I contributed in a positive way, and I learned so much of what I can take with me." (Leadership Development Class participant, volunteered at a day care center)

From these statements, it is obvious the students were able to experience the leadership skills and styles they were learning in the classroom, through the workshops and in their organizations. When assessing the leadership programs at CCD, students almost always comment on the positive aspects of the community involvement project included in their experience. The students are not only learning and implementing leadership techniques, they also have an opportunity to give back to their community.

CONCLUSION

After analyzing the assessment, it has been determined that service learning has been a crucial part of the Leadership Programs at CCD. As per the assessment, 100% of the students agreed that the service learning was a valuable part of the program. Additionally, 80% of the students agreed or strongly agreed that they would continue to volunteer with their community agency.

Furthermore, a positive service learning outcome was achieved for each of the three leadership programs. First, the Leadership Development Class has become a pilot service learning class that other faculty have modeled when integrating service learning into their curriculum. Second, students who successfully completed the MOVE Leadership Program have returned to facilitate workshops for other MOVE students. Finally, the other institutions on the Auraria Campus (where CCD is located) are requiring community service for their clubs and organizations to encourage community involvement.

In conclusion, the philosophy of adding service learning has been determined to have a positive effect on the leadership programs at CCD. The CCD Leadership Advisory Council was developed to assess leadership programming at CCD and agrees that this is a vital part of the leadership programs. The service learning component will continue to grow and students will have more opportunities to become involved with their community. In the past, the Office of Student Life and Activities has planned two volunteer opportunities a semester for the students. The office is now planning to increase this amount as well as the level of reflection. Club and organization presidents are being asked to participate in further reflection and assessment. CCD hopes to have another study next year to evaluate what leadership skills the students have learned throughout the program specifically with service learning. CCD Student Life and Activities believes that service learning is a crucial part of any leadership program and hopes that this model of leadership development will be seen as a valuable component that should be incorporated

into leadership programs throughout the country.

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This article describes the difficulty of defining how much due process is due to students of higher education who face the loss of a liberty or property interest. Applicable legal definitions and decisions are reviewed, and questions regarding the need for an analysis of consistency among institutions are raised.

How Much Due Process is Due?

De Etta M. Jones and Allison Carroll

INTRODUCTION

Current discourse on due process in higher education focuses on academic and disciplinary concerns. The following questions represent troubling legal issues derived from a lack of consistency in the definition of how much due process is due to students facing the loss of a liberty or property interest in higher education:

1. What constitutes a fair hearing?
2. When and what type of notice is due?
3. Should due process procedures vary depending upon the allegation?
4. Should due process procedures vary depending upon the sanctions which are assumed to be appropriate for the alleged acts?
5. Should students be allowed to have legal counsel with them during a hearing?
6. Should students be allowed to cross-examine other witnesses or at least to confront them during a hearing?
7. Should students be guaranteed a written copy of a final disciplinary or academic decision when there is the potential for loss of a liberty or property interest or actual loss?
8. What type of consistency should exist amongst public institutions regarding due process procedures?

DUE PROCESS

Due process of law implies “the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved” (Black, 1968, p. 590). In *Goss v. Lopez*, the Supreme Court set forth the following minimum requirements for the provision of due process (1) oral or written notice of the charges; (2) an explanation of the evidence if he or she denies these charges; and (3) an opportunity to present his or her side of the story. *Goss v. Lopez* does not, however, stipulate when this notice should be given nor does it describe what an “opportunity” to present another side to an allegation entails. *Esteban v. Central Missouri State College* (1967) provides greater detail regarding due process requirements and a higher level of protection than *Goss v. Lopez*. *Esteban* held that due process requires the following:

1. A written statement of the charges, at least ten days before the hearing;
2. A hearing before the person(s) having the power to suspend or expel;
3. A chance for advance inspection of any affidavits or exhibits the college will use at the hearing;
4. The opportunity to be accompanied by an attorney during the hearing for advice;
5. The chance to present his or her side of the story via affidavits or witnesses;
6. The right to hear the evidence against the student and the right to cross-examine witnesses;
7. A finding based upon the evidence presented during the hearing and no other evidence;
8. A written statement of the findings; and
9. The right to record the hearing.

Although *Esteban* provides more detail than *Goss v. Lopez*, there are still areas of ambiguity regarding how institutions of higher education should fulfill the requirements it describes. As Kaplin and Lee (1995) point out, “there is no clear constitutional requirement concerning how much advance notice the student must have of the charges. As little as two days before the hearing has been held adequate. . . In general, courts handle this issue case by case, asking whether the amount of time was fair under all the circumstances”

(p. 487).

Due process also does not require an open or public hearing. According to Kaplin and Lee (1995), "cross-examination, the right to counsel, the right to a transcript, and an appellate procedure have not generally been constitutional essentials, but where the institutions have voluntarily provided these procedures, courts have often cited them approvingly as enhancers of the hearing's fairness" (p. 488). Lastly, institutional obligations of due process are likely to increase if the conduct in question is also the subject of a criminal court proceeding (Kaplin and Lee, 1995).

PROCEDURAL AND SUBSTANTIVE DUE PROCESS

The Supreme Court, in determining procedural and substantive due process, distinguishes academic expulsion from disciplinary expulsion. Because the determination of whether to dismiss a student for academic reasons requires an expert evaluation of cumulative information, "the due process clause does not require that a student be given a hearing before the school's decision-making body in connection with an academic dismissal" (McCarthy, 1985, p. 101).

The Pennsylvania federal district court, however, has ruled that "prior to a student's dismissal from a program he was entitled to a hearing so that he could explain the reasons for his poor scholarship and supply information which might convince the administration that his future performance would be satisfactory" (*Ross v. The Pennsylvania State University*, 455 F. Supp. 147 (1978)). The same court recognized that a hearing is not required in academic dismissals where students simply fail to meet clearly established requirements.

Substantive due process limits the court's role in protecting due process rights to "judging whether school authorities were motivated by malice or bad faith or acted in an arbitrary or capricious manner in that there was not rational basis for the decision" (McCarthy, 1985, p. 102-103). The Michigan federal district court held that "the judiciary can only scrutinize the objective factors which may have tainted or otherwise affected the decision, and not the property of the decision itself" (McCarthy, p. 103). It has also been held that in cases involving substantive due process, the student has the burden of proving that an academic assessment is unjust.

Students may argue a claim of arbitrary action because academic assessments have been based in part on subjective judgments by faculty members. The courts have not generally ruled in favor of such an argument. "An Ohio federal district court reasoned that a certain degree of subjectivity in personal interviews used as a basis for admitting students to a veterinary degree program did not constitute arbitrary action in violation of substantive due process rights" (McCarthy, 1985, p. 104).

McCarthy (1985) points out that the courts have intervened in academic decisions if school authorities have not followed their adopted policies or procedures or have acted arbitrarily or in bad faith: "Also, academic dismissals have not been annulled where institutions have not applied standards in a uniform manner or have not properly advised students of admissions criteria or of their deficiencies in meeting degree requirements" (McCarthy, p. 106).

Kaplin and Lee (1995) explain further that "whenever an institution has applied procedures that apply to the imposition of sanctions, the law will usually require that they be followed" even in the case of private colleges and universities (Kaplin and Lee, p. 484). Hence, the major test for violation of substantive due process is whether or not the institution acted in an arbitrary or capricious manner or if its sanctions imposed have been deemed inconsistent with its own regulations and past practices.

FIFTH AND FOURTEENTH AMENDMENTS

The right to due process of law is ensured through clauses in constitutional amendments. The Fifth Amendment reads in part, "No person shall . . . be deprived of life, liberty, or property, without due process of law. . . ." (Kaplin, 1978, pp. 464-465). "The Fifth Amendment was created as a way to provide limitation for federal government" (Norton, 1965, p. 213). The Fourteenth Amendment was created to extend the Fifth Amendment due process provisions as applicable to the states (Kluger, 1977) and reads in part, "nor shall any State deprive any person of life, liberty, or property, without due process of law. . . ." (Kaplin, p. 466).

STATE ACTION

The Federal government regulates the constitutional right to due process only in cases where state action exists. Insofar as private colleges and universities are concerned, the determination of state action has been addressed in several cases. In *Evans v. Newton*, the United States Supreme Court defines state action as follows: "Conduct that is formally 'private' may become so entwined with governmental policies or so impregnated with a governmental character so as to become subject to constitutional limits placed upon state action" (*Evans v. Newton*, 382 U.S. 296 (1966)).

Hollander (1978) summarizes that "private institutions. . . must meet only contractual or statutory requirements, and are not usually subject to constitutional mandates such as the Fourteenth Amendment requirements for due process and equal protection" (p. 10). Thus procedural due process

protections are applicable to private institutions only if there exists a judicial finding of state action.

Three approaches have been used to determine state action in allegations of due process violations involving private institutions (Habecker, 1986). The first is the delegate power approach whereby the government actually delegates a particular task to the private college or university on the government's behalf. A second approach used in the attempt to show state action is the governmental aid or assistance received by the private institution (Habecker, 1986, p. 5). The third approach to showing state action is the public character or function approach (Kaplin and Lee, 1995, p. 23). This approach suggests that "the function of private higher education is so essentially public that a governmental standard should judge its performance" (O'Neil, 1970, p. 168). While there are other approaches which argue for the existence of state action, these three approaches are the primary vehicles which have carried the state action argument regarding private colleges and universities (Habecker, 1986).

Another component of determining state action is whether or not racial or sexual discrimination is involved. In *Powe v. Miles* (1968), the court specifically noted that it would have been more willing to find state action if racial discrimination had been involved because "discrimination may stand somewhat differently, because of the peculiar offensiveness of the state's taxing all citizens for objectives from the benefits of which a particular category is arbitrarily excluded or disadvantaged" (*Powe v. Miles*, p. 82). It would appear, through this and several similar cases, "that whenever litigation in the private college involves as part of the complaint an allegation of racial discrimination, there is a likelihood that courts may find state action as part of the complained proceeding" (Habecker, 1986, p. 15).

PROPERTY INTERESTS

Piccozi (1987) states that "the Fourteenth Amendment does not create interests in property. Rather, property interests 'are created and their dimensions are defined by existing rules of understandings that stem from an independent source such as state law—rules or understandings that secure certain benefits'" (1987, p. 2136). In contrast, *Hart v. Ferris State*, 557 F. Supp. 1379 (Mich. 1983) concludes that "it is undisputed that the threat of suspension or expulsion implicates plaintiff's property and liberty interests in public education and reputation, and that such interests are within the purview of the due process clause of the Fourteenth Amendment." In defining the full scope of requirements for meeting the test of property interest, the *Board of Regents v. Roth* stated that:

To have a property interest in a benefit, a person must clearly have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. It is a purpose of the ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined. (408 U.S. 564 (1972))

For institutions of higher education, a contract is entered into by accepting tuition and providing educational resources in return. This contract gives substance to the student's expectation of graduation. "If the expectation were 'unilateral,' the university would not have enrolled the student at all" (Piccozi, 1987, p. 2137).

LIBERTY INTERESTS

"In *Wisconsin v. Constantineau*, the Supreme Court stated that liberty interests subject to the protection of due process are present '(w)here a person's good name, reputation, honor or integrity is at stake because of what the government is doing to him'" (Piccozi, 1987, p. 2137, from 400 U.S. 433 (1971)). However, in *Paul v. Davis*, the Supreme Court held that not all defamation infringes sufficiently upon liberty interests to trigger procedural due process protection. "Rather, stigma must be accompanied by the deprivation of a right previously held under state law, or result in some other alteration of legal status, such as employment" (Piccozi, p. 2137, from 424 U.S. at 708-09).

The most significant alteration of an expelled student's status is his or her inability to enroll at another institution. Education, in this example, is held as a liberty interest. There is also the possibility of an economic wound and/or emotional distress which is incurred by dismissal.

CONSISTENCY IN DUE PROCESS PROCEDURES

Two studies have shown that due process procedures for disciplinary hearings are not consistent among institutions of higher education. Ludeman (1989) sampled 208 institutions of higher education and found that 85% had a formal structure for adjudicating academic grievances. In a study of 83 public institutions, Golden (1980) found that:

1. 37.9% did not allow students to have legal counsel during a hearing

2. 36.2% did not allow cross-examination by the student
3. 60.3% did not guarantee the student the right to confront his or her accusers
4. 55.2% did not guarantee the student an impartial decision maker
5. 75.9% did not guarantee the student written findings of fact (as cited in Piccozi, 1987, p. 2149)

Baker (1992) points out that countervailing interests such as administrative costs and the potential deprivation of the accused student must be balanced and will be balanced differently for different institutions. Thus different institutions will offer different levels of due process based upon the criteria set forth in *Matthews v. Eldridge*, 424 U.S. 319, 335 (1976):

1. The private interest to be affected;
2. The risk of erroneous deprivation under current procedures and probable value of additional procedures; and
3. Governmental interest, the function of the organization or agency involved, and the level of burden which requiring additional procedures would impose.

Consistency between colleges and universities would be difficult to enforce insofar as institutions vary in the amount of funding and personnel available to administer a consistent standard of due process. Thus the courts have recognized the need to respect the potential burden that increased administrative costs and potentially negative effects on the educational process which an increase in the number and content of adversarial hearings could entail. During this era of decreasing resources and increasing litigation, administrators in higher education could decide that the standard of due process afforded students must vary with the allegation and potential sanction.

QUESTIONS AND CONSIDERATIONS

One consideration not found in a review of the relevant literature is the role potential sanctions play in the determination of how much process is due; if suspension or expulsion is a possibility, it appears that more process is due because of the increased level of harm which erroneous deprivation of a liberty or property interest that is suggested by the increased severity of the misconduct (Cole, 1994). "A public college or university contemplating a student suspension for non-academic misconduct generally need not give the student the same due process it would for a dismissal" (Cole, 1994, p. 16). This advice is troubling, however, because administrators are enjoined to decide how much process is due based upon a *potential sanction* of an *alleged*

act or lack thereof which has not yet been proven.

Unless a college or university can guarantee that it will only consider evidence which it gathers in advance of a hearing (formal or informal) and which it provides to the defendant in advance, any evidence entered into the hearing without the defendant's knowledge could magnify the case and lead to the imposition of a harsher sanction than was originally supposed or perhaps to a stigmatization; this in turn suggests that more 'due process' should have been provided as the potential loss is now greater. Establishment of due process procedures which consider the possibility that a student initially charged with an action punishable by suspension could be ultimately found guilty of an act which is punishable by expulsion, would be a fair and practical policy.

Should there be a clear and consistent standard of due process guaranteed at both public and private institutions of higher education? Would clearer guidelines from the Supreme Court assist with such an endeavor? Piccozi (1987) argues that universities would better meet the dictates of due process and fundamental fairness if they adhered to a system which distinguishes between minor offenses, major offenses, and felony offenses, and which recognizes that the potential penalty should be given primary consideration when determining how much due process is due.

Piccozi (1987) also points out the dangers inherent in some university systems in which an administrator plays the roles of police, prosecutor, judge and jury, whereby "these functions no longer check each other" (p. 2141). He suggests that in the interest of fairness, an impartial Hearing Officer should review only those cases which a faculty and student Investigations Committee suggest and that this Hearing Officer should have no prior contact with the matter.

Baker (1992) proposes eight research questions which, if answered, might provide insight into the question, "How much due process is due?" These are:

1. To what extent have colleges and universities complied with the judicial mandate of Dixon and later cases by maintaining adversarial proceedings for resolving serious disciplinary complaints?
2. To what extent do colleges and universities provide more than minimum procedures required under the Constitution?
3. To what extent are college students falsely accused of misconduct at postsecondary institutions?
4. To what extent do college students accused of misconduct dispute the allegations when confronted by college officials?
5. When the facts of a disciplinary hearing complaint are disputed by the accused, do the investigator and hearing officer/board

- properly weigh the evidence? Are administrators swayed by arbitrary or irrelevant factors such as public relations?
6. Are officials at schools that employ a structured judicial procedure more likely to conduct a thorough investigation than officials at schools that do not provide a system offering personal incentives?
 7. Do college officials make consistent and nonarbitrary judgments regarding sanctions once the facts of a case have been accurately determined?
 8. Can administrative accountability (i.e. accurate determinations of fact) be achieved by means other than adversarial procedures?
- (p. 5-6)

In a review of the relevant literature, Baker (1992) found that “relatively few articles or books have been published that address the questions presented above. Several commentators have addressed issues #1, and #2, and a few have discussed administrator competency (#5). But the others have received little attention” (p. 6). Addressing these issues may provide justification for maintaining current “informal” due process requirements; it cannot be assumed, however, that research on these issues would not reveal a need to further define the meaning of fundamental fairness and a need to guarantee certain standards of due process which go beyond those laid out in *Dixon*.

CONCLUSION

While administrators of institutions of higher education may share the goal of providing a fair and consistent judicial system, do they also share the goal of agreeing upon a definition of how much due process is due? Perhaps the issues raised here will encourage individuals and institutions to respond to Baker’s questions and take our nation one step closer to defining how much due process is due to students in institutions of higher education.

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Punished by Rewards: The Trouble with Gold Stars, Incentive Plans, A's, Praise, and Other Bribes

Alfie Kohn

Houghton Mifflin Company, 1993

398 pages, \$13.95 (softcover)

Review by Dr. David A. McKelfresh

Alfie Kohn challenges our reliance on carrot-and-stick psychology in *Punished by Rewards: The Trouble with Gold Stars, Incentive Plans, A's, Praise, and Other Bribes*. This is an intriguing indictment of rewards at work, at school, and at home. "Do this and you'll get that" (Kohn, 1993, p. 3), summarizes the prevailing strategy for managing workers, teaching students, and raising children. Kohn contends that managers, teachers, and parents dangle goodies, from candy bars to sales commissions, in front of people in the same way a pet is trained.

Kohn destroys a universal myth in his groundbreaking work demonstrating that while manipulating people with incentives seems to work in the short run, it is a strategy that eventually fails and ultimately does lasting harm. He draws from hundreds of studies of a diverse group of students, workers and children and demonstrates that people actually do inferior work when they are lured with money, grades, or other incentives. Kohn makes the case that the more artificial inducements are used to motivate people, the more they lose interest in what they are being bribed to do.

The first six chapters, grouped under the heading "The Case Against Rewards," lay out the central argument. Chapter 1 reviews the behaviorist tradition, the prevalence of pop behaviorism in our society, and some reasons (pragmatist belief systems and orthodox economic theory) for its widespread acceptance. Chapter 2 considers arguments about the intrinsic desirability of rewarding people, first challenging the claim that doing so is morally or logically required and then proposing that there is actually something objectionable about the practice. According to Kohn, the problem is not with compensation, per se, but with using money as a reward by offering more of it for this or that. Five problems with rewards at work are discussed: 1) rewards punish, 2) rewards rupture relationships, 3) rewards ignore reasons, 4) rewards discourage risk-taking, and 5) rewards undermine interest. The more closely pay is linked to achievement, the more damage is done.

Chapter 3 focuses on practical consequences, summarizing the research evidence showing that rewards simply do not work to promote lasting behavior change or to enhance performance; many times they make attitudes and behavior worse. In chapters 4 and 5, Kohn offers five key reasons for the failure of rewards. Chapter 6 examines one particular reward few people would think to criticize: praise. Kohn argues that we need to look carefully at why we praise, how we praise, and what effects praise has over time on those receiving it.

The second half of the book, organized under the heading “Reward in Practice,” examines the effect of rewards and their alternatives focusing on three issues: employees performance, students’ learning, and children’s behavior. This section of the book is organized in a fashion such that readers interested in only one of these topics will not have to spend time reading discussions of the other two.

Workplace issues are discussed in chapters 7 and 10, educational issues in chapters 8 and 11, and the issues of children’s behavior and values in chapters 9 and 12. Kohn suggests that the issues that really matter are the three C’s of motivation: choice, collaboration and content. Choice means workers should participate in making decisions about what they do. Collaboration means they should be able to work together in effective teams. Content refers to the job’s tasks. “To do a good job, people need a good job to do” (Kohn, 1993, p. 189).

Kohn has produced a unsettling challenge to conventional thinking. Although some may find the evidence in the book deeply disturbing, the Skinnerian dogma that pervades our institutions needs careful reexamination. This is a helpful book for those who are currently student affairs practitioners and for graduate students studying the field. Student affairs faculty will find this book an excellent resource in a seminar on higher education administration or organizational leadership. Additionally, faculty will come to view *Punished by Rewards* as a helpful guide to creating a positive classroom environment. Kohn recommends that faculty focus on: 1) relaxing their emphasis on grades and encouraging an orientation toward learning, 2) viewing learning as discovery, 3) emphasizing cooperative learning, 4) deciding what things are worth knowing, and 5) providing students with autonomy and choice in the classroom.

Readers will come away with the strong impression that we have paid an enormous price for having accepted pop behaviorism for so long. The good news, according to Kohn, is that we can do better.

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Colorado State University Journal of Student Affairs

Guidelines for Manuscript Preparation

PURPOSE

Manuscripts should be written for the Student Affairs generalist who has broad responsibility for educational leadership, policy, staff development, and management. Articles on specialized topics, such as harassment, should be written to provide the generalist with an understanding of the importance of the program area to Student Affairs (see also the Mission and Goals of the *Colorado State University Journal of Student Affairs* on the front inside cover).

The Editorial Board invites submissions of the following types of articles:

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- * Editorial Articles
- * Historical Articles
- * Opinion/Position Pieces
- * Book Reviews

Research articles for the *Journal* should stress the underlying issues or problems that stimulated the research, treat the methodology concisely, and most importantly, offer a full discussion of the results, implications, and conclusions.

PROCEDURE

Manuscripts should not exceed 3,000 words (approximately 12 pages of double spaced, typewritten copy, including references, tables, and figures), and should not be fewer than 1,000 words (approximately four pages). Exceptions should be discussed with the co-editors prior to submission.

To submit an article:

1. Prepare the manuscript, including title page and reference page, in accordance with the *Publication Manual of the American Psychological Association, Fourth Edition*.
2. Send the original and three copies of the manuscript to the aforementioned address, attention: Content Editor.
3. Include an article abstract and brief description of the author.
4. Double-space all portions of the manuscript, including references, tables, and figures.
5. Avoid sexist terminology; refer to page 50 of the *Publication Manual for assistance*.
6. Do not use footnotes; incorporate the information into the text.

7. Use the active voice as much as possible.
 8. Check subject/verb agreement and singular/plural.
 9. Use verb tense appropriately: past tense for the literature review and description of procedures, and present tense for the results and discussion.
 10. Proofread and double check all references/citations before submitting your manuscript.
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 12. Any article under consideration for publication in a nationally distributed journal may not be submitted to the *Colorado State University Journal of Student Affairs*.
 13. When a commitment to write form is received in our office, a style sheet form, Fourth Edition will be mailed.
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