MONDAY, FEBRUARY 15, 1993
4:00 - 5:30 p.m.

CONCURRENT SESSION THREE

Inherent Ethical Issues Affecting Administration
(What the Rules Don’t Cover). The Ethics of
Advising the University Client: How to
Advise University Committees and Individuals.

Faculty:

Dr. James R. Beasley
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ETHICAL CLIMATE AND OTHER FACTORS AFFECTING ETHICAL PRACTICE IN HIGHER EDUCATION

PRESENTED BY:

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Presented at the Stetson University
College of Law Conference:

14th ANNUAL NATIONAL CONFERENCE ON LAW AND HIGHER EDUCATION: ISSUES IN 1993
Sheraton Sand Key Resort Hotel
Clearwater Beach, Florida
February 14-17, 1993
Panel Session, Stetson Law Conference: "Inherent Ethical Issues Affecting Administration (What the Rules Don't Cover). The Ethics of Advising the University Client: How to Advise University Committees and Individuals" February 15, 1993.

**Ethical Climate and other Factors Affecting Ethical Practice in Higher Education**

Patricia M. King

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I. **Introduction**

A. I will speak to you today from the perspective of a faculty member in a department of Higher Education and Student Affairs, a former Assistant Vice President for Student Affairs, a former chair of the University Academic Honesty Committee, and the current President of the Association for Moral Education. Each of these roles has contributed to my understanding ethical issues and the perils of offering advice about decisions that may have ethical implications. (That includes most of our daily decisions.)

B. **Critical Thinking and Moral Development are Desired Outcomes of Participation in Higher Education.** Teaching undergraduate students to think critically about complex issues and to make informed judgments is one of the most commonly-cited intended outcomes of higher education. As the authors of *The Challenge of Connecting Learning* have stated:

"In the final analysis, the challenge of college, for students and faculty members alike, is empowering individuals to know that the world is far more complex than it first appears, and that they must make interpretive arguments and decisions — judgments that entail real consequences for which they must take responsibility and from which they may not flee by disclaiming expertise." (AAC, 1991, pp. 16-17)

Students also need to learn how to make informed judgments about issues that have ethical implications, or as Boyer (1987) would say, "to develop the
capacity to judge wisely in matters of life and conduct" (Boyer, 1987, p. 284). Some people shy away from making ethical judgments or from offering advice on ethical issues because they wonder if they have the necessary expertise. But as the AAC authors note, this isn’t a good excuse for college students and it’s not a good enough excuse for the rest of us, either. We make decisions that have ethical implications whether we intend to or not; the challenge is to make better, more informed, and more intentionally ethical decisions. I will assume that each of you aspires to provide the best possible advice to those with whom you work. In my view, the best possible advice takes into account not only the legal issues, but the ethical issues as well.

B. Overview of this presentation
1. Description of Rest's (1984) Four-Component Model of Morality
3. Observations and Suggestions for Improving the ethical Climate on Campus

II. Rest's Four-Component Model of Morality
In the spirit of life-long learning and continuing education, let's start with the basic component of morality. The first is from that well-known moral philosopher, Mark Twain. He is reported to have said, “Always try to do the right thing. A few will appreciate it; the rest will be astounded.”

A. Component I: Interpreting the Situation as Moral. There are two considerations within this component.
1. The first of these is being aware of the moral dimension within the situation, "that she/he could do something that would affect the interests, welfare, or expectations of other people" (Rest, 1986, p. 5) Bystander intervention ("helping behavior") research shows the complexity of
interpreting ambiguous cues in social situations; empathy (distress a person feels which has been triggered by the perception of distress in another person) is also involved in this component.

2. The second consideration involves recognizing how possible courses of action affect all parties involved, including what actions are possible, who would be affected by each course of action, and how the interested parties would regard such effects on their welfare.

B. **Component II: Defining the Morally Ideal Course of Action.** This component involves determining what one ought to do. It involves answering the question, "Which course of action is morally right?" and then formulating a plan of action that applies a moral standard or ideal (e.g., fairness). Research based on Kohlberg's (1971) theory fits within this component, alerting us that what is considered to be fair differs systematically by stage (e.g., fair is what is fair to me, fair to my family or peer group, fair even to strangers, etc.). Many college students interpret fairness in terms of possible negative impact on them, without showing empathy or understanding of others, which is certainly more egocentric than we would wish.

C. **Component III: Deciding What One Intends to Do.** People have other values besides moral values; these other values can affect moral decision-making.

"Why would one ever chose [sic] the moral alternative, especially if it involves sacrificing some personal value and suffering some hardship? What motivates the selection of moral values over other values?" (Rest, 1986, p. 14) This component involves evaluating the various courses of action for how they would serve moral or nonmoral values (political sensitivity, professional aspirations, legality, public relations impact, perceived level of vindictiveness of an involved party, etc.), and deciding what one actually intends to do.

Here, "the person must give priority to moral values above other personal
values such that a decision is made to intend to do what is morally right" (p. 3). This is no small undertaking in environments where such actions are not explicitly valued or where they don't conform to the institutional or peer group norm.

D. Component IV: Executing and Implementing a Moral Plan of Action. This focus of this component is acting as one intended to act. It involves "figuring out the sequence of concrete actions, working around impediments and unexpected difficulties, overcoming fatigue and frustration, resisting distractions and allurements, and keeping sight of the eventual goal" (Rest, 1986, p. 15). Accomplishing all this seems to reflect such attributes as perseverance, resoluteness, strong character, the strength of one's convictions, and even how much energy you have for the task, etc.

E. Interaction among Components. Rest (1986) emphasizes that these components are not intended to be ordered sequentially as a moral decision-making model. Nor should they be considered virtues of the ideally moral person. Further, individuals are not assumed to be equally adept at mastering the demands of the different components. "A person who demonstrates great facility at one process is not necessarily adequate in another. We all know people who can render very sophisticated judgments but who never follow through on any course of action; we know people who have tremendous follow-through and tenacity but whose judgment is simple-minded. In short, the psychology of morality cannot be represented as a single variable or process" (p. 4).

F. Summary. In this section, I have presented some new approaches to thinking about and understanding both morality itself and factors that influence moral development. I have done so in the hope that these new concepts and findings will inform our understanding of what is involved in acting ethically.
III. Kitchener's Model: The Foundations for Ethical Decisions

Having suggested that the basic processes of morality can offer some helpful insights on thinking through your own moral dilemmas and in giving advice, I will now introduce a model of ethical decision-making (Kitchener, 1984) that also serves to help identify resources to which a person can turn when faced with an ethical dilemma.

A. Level 1 -- Intuitive Level. Immediate judgments and actions are based on "ordinary moral sense"

B. Level 2 -- Critical-Evaluative Level. Reasoned judgments and evaluations are base on one of the following:

1. Rules (professions codes of conduct, laws, department or university regulations)

2. Ethical Principles (Kitchener, 1985)
   a. Nonmaleficence: Do No Harm
   b. Beneficence: Act to Benefit Others
   c. Autonomy: Respect Autonomy
   d. Justice: Promote Justice
   e. Fidelity: Be Faithful

3. Ethical Theories (utilitarian, consequentialist, etc.)

IV. Promoting Ethical Behavior in Higher Education: Observations and Suggestions for Improving the Ethical Climate on Campus

Development occurs in a context, and some contexts are more conducive to ethical development than are others. Institutions have many kinds of climates (contexts) that may be more or less conducive to the development of its members. This includes its ethical climate, which Michael Scriven (1982) has compared to
air pollution: "it has for too long been part of the invisible environment of the academy; like the air we breathe, it [is] taken for granted until trouble [begins]" (p. 307). I will next discuss my suggestions for improving the ethical climate on college campuses. (These ideas are taken from King, 1992.)

A. We should help people to recognize that the moral dimension of an issue is as often hidden as it is visible.

B. We should help people understand that while there are many possible answers to ethical questions, there are also better and worse ways of resolving ethical problems.

C. We should help students and staff with whom we work to clarify their "moral aspirations" and to recognize that for better or worse, we all serve as ethical role models for others.

D. We should help each person to "develop a clearer, more explicit and more consistent set of ethical principles that takes more careful account of the needs and interests of others" (Bok, 1976, p. 29).

E. We should teach people to recognize action as an outcome of ethical judgment. [Note theme for the 1993 Annual Conference of the Association for Moral Education: "From Judgment to Action: Visions for Moral Education."]

F. We should make the moral dimension of our work with students more explicit, less often hidden.

G. We should encourage students and colleagues to aspire to a high level of personal and professional integrity.

H. We should teach students to reason about moral issues.

I. We should offer students the opportunity to observe and practice ethical decision-making.
J. We should involve students in the process of creating and maintaining communities on campus that are intentionally designed to take careful account of the needs and interests of others.

K. **Summary:** This list for improving the ethical climate on campus is by no means exhaustive; nor is it as detailed as some would wish. Rather, I offer these ideas as a starting point for discussion and consideration as administrators in various positions contemplate their opportunities and responsibilities for influencing the ethical climate of their colleges and universities.
References


INHERENT ETHICAL ISSUES AFFECTING ADMINISTRATION

WHY ARE ETHICAL ISSUES IMPORTANT?

PRESENTED BY:

Gary Pavela
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Presented at the Stetson University
College of Law Conference:

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INHERENT ETHICAL ISSUES AFFECTING ADMINISTRATION

Why are ethical issues important?

Gary Pavela

How is "ethical behavior" defined?

1. "in all the great moral philosophies...it is taught that one of the conditions of happiness is to renounce some of the satisfactions which men normally crave...With minor variations it is a common theme in the teaching of an Athenian aristocrat like Plato, an Indian nobleman like Buddha, and a humble Jew like Spinoza." (Walter Lippman, A Preface to Morals p. 156).

2. [From a poster displayed on the University of Maryland campus]

"Housemates wanted Aug. 1, 1987 for a new intentional community...I'm establishing a small scale intentional community of 5 people. This community will have a countercultural, left-wing communal atmosphere...The following energy is not welcome in our new community: junk food, meat, unhealthy lifestyles, smoking, excessive use of alcohol or other drugs, hard drugs such as cocaine, personal irresponsibility, dishonesty, or lack of personal integrity, inconsiderateness of others, sexism or male chauvinism, loud music when others are home, negative energy, political or religious dogmatism, TV, advertising, consumerism, violence, a lack of respect for others, the house, or the earth, or passive lifestyles that accept things as they are rather than trying to transform things."


8 Points of Attention

1. Speak politely
2. Pay fairly for what you buy
3. Return everything you borrow

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Director of Judicial Programs at the University of Maryland-College Park. Editor of Synthesis: Law and Policy in Higher Education and Syntax Weekly Report.
4. Pay for anything you damage
5. Do not hit or swear at people
6. Do not damage property or crops of the poor, oppressed masses.
7. Do not take liberties with women.
8. If we have to take captives do not ill-treat them

4. "I will not lie, cheat, or steal"

--Malcolm X (upon his conversion to the Moslem faith while in prison, as depicted in Spike Lee's Malcolm X).

Why is adherence to an ethical standard important to individuals?

5. "Nearly every dying patient wants to feel he is leaving behind a life that has had some meaning. The thing that gives most people either great comfort--or regret--is the quality of their ties with others. I don't see many dying patients who draw much solace from all the money they made or the positions they held." (Hospice nurse Peggy Beckman in the February 11, 1985 U.S. News and World Report p. 71.)

6. "I was driving home from work around 10 o'clock one night and as I crossed into New Jersey I suddenly burst into tears," recalled Mrs. [Susan] Lawley [Goldman, Sachs and Company Vice President]. 'I couldn't see the road I was crying so hard. I realized that tonight, like almost every night, I would miss seeing my son because he was already in bed. I realized that life is too short to live like that" (June 24, 1990, New York Times, p. F25).

7. "Humans are caught--in their lives, in their thoughts, in their hungers and ambitions, in their avarice and cruelty, and their kindness and generosity too--in a net of good and evil. I think that this is the only story we have and that it occurs on all levels of feeling and intelligence. Virtue and vice were warp and woof of our first consciousness and they will be the fabric of our last, and this despite changes we may impose on field and river and mountain...There is no other story. A man, after he has brushed off the dust and chips of his life, will have left only the hard, clean questions: Was it good or was it evil?" John Steinbeck, East of Eden.

8. "Way back in his childhood there had been something really pleasant, something he could live with were it ever to recur. But...it was as though he were recalling the memories of another man...As soon as he got to the period that had
produced the present Ivan Ilyich, all the seeming pleasures of his life vanished before his sight...

Beginning with the years he had spent in law school. A little of what was genuinely good had still existed then: there had been playfulness and friendship and hope. But by the time he reached the upper classes, the good moments in his life had become rarer...

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The doctor said his physical agony was dreadful, and that was true; but even more dreadful was his moral agony, and it was this that tormented him most." (Selections from Leo Tolstoy's *The Death of Ivan Ilyich* pgs 119, 126.)

9. [From an interview with a University of Maryland student expelled for academic dishonesty in the *Educational Record* Summer 1981, pp 19-28].

Q. Do you feel there is a problem with cheating at the University?

A. Undoubtedly

Q. What have you seen?

A. During one exam last month, I had the proctors standing right next to me talking to one another, saying how they were directed by the professor not to catch anybody cheating: "Don't. If you see somebody cheating, walk up from behind them, maybe they will get scared and stop it. But it is a multiple choice exam and that's the sort of cheating that's too hard to prove, so don't even do it. Don't bother." Then the whole place was like a circus...

Q. Is engaging in cheating fair to honest students?

A. I don't think of it like that. I know some students do. But the attitude is generally, this is the way it is. When they work, a lot of these kids, either their fathers work in business, whatever they do, they get a shortcut—the other guy doesn't. That's the way I look at it. If I'm sharp enough to know the right people to get what I need, and he's not, then that's the point of the whole thing.

10. "I remember the testimony of the witness Pierre Durand when he told of the day Buchenwald was liberated. 'We, the inmates, took 220 German prisoners,' he said. 'But we locked them up and delivered them to the American Army intact, and they were
all assassins. That was the difference between them and us."

11. "The good man's only singularity lies in his approving welcome to every experience the looms of fate may weave for him, his refusal to soil the divinity seated in his breast or perturb it with disorderly impressions, and his resolve to keep it in serenity and decorous obedience to God, admitting no disloyalty to truth in his speech or to justice in his actions. Though all the world mistrust him because he lives in simple self-respecting happiness, he takes offense at none, but unswervingly treads the road onward to life's close, where duty bids him arrive in purity and peace, reluctant to depart, in perfect and unforced unison with fate's apportionment." (Marcus Aurelius, Meditations #15 p. 61; Penguin Classics, 1964).

Why is adherence to an ethical standard important to societies?

12. Gunnar Myrdal found thirteen cultural traits important for economic development. They included:

- diligence
- orderliness
- punctuality
- honesty
- rationality in decisions
- cooperativeness
- long view

(cited in James Fallows More Like Us, p.24).

13. [from Syntax Weekly Report, 92.68]

Personal values and national survival

A front page article in the November 10, 1992 New York Times reports that Indians and foreigners alike have come to regard corruption "as a way of life" in modern India. The government in particular is seen as a "caldron for greed and venality." Many Indians are concerned that the corruption "is growing rapidly and becoming so pervasive that India may never emerge from poverty and underdevelopment or possess a truly just legal system." Some wonder "whether the country's very soul has been irredeemably warped."
Practice Implication> This is a good article to review with faculty members who are reluctant to discuss "personal values" in the classroom. You may also want to share it with the members of your academic integrity hearing boards.

Setting and enforcing high standards for personal integrity goes beyond simple moralism. It is necessary for any society that aspires to compete in the world economy, and to promote economic justice at home. See, for example, "The South American Way of Graft" by Eugene Robinson in the December 2, 1990 Washington Post p. C4: "Diversity of cultural values is a wonderful thing, and let a hundred flowers bloom. But 'The Way Things Work' down here has implications for...economic recovery projects now under way."

14. "We are engaged in a struggle to ensure that the rights of every individual are guaranteed and protected through a democratic constitution, the rule of law, an entrenched bill of rights, which shall be enforced by an independent judiciary as well as a multiparty political system." (From Nelson Mandela's June 26, 1990 address to a joint session of Congress, cited in the Washington Post June 27, 1990, p.A16).

15. "We are better at research than at the public discourse required to transmit ideas and values...Science and learning do not by themselves satisfy our need to provide meaning to our lives...We must deal with the spirit of men, not their fortunes...it is also critical that our students leave our campus with an ability and a desire to engage in the moral discourse required to give greater meaning to our national life." (Inaugural speech of President Shapiro at Princeton University, January 9, 1989 New York Times, p.29).
FREEDOM OF EXPRESSION

Confronting ACT-UP at Yale

We've written before about the temptation to censor various forms of offensive expression on campus, including pornography. See Syntax Weekly Report 92.21 (p. 7) and 92.34 (p. 11).

This issue arose recently at Yale Law School, where the gay activist group ACT-UP affixed to the School's "democracy wall" a poster displaying a two-foot-long picture of an erect penis, with the statement "Sexism Raises its Unprotected Head. Men: Use Condoms or Beat it. AIDS Kills Women."

According to the December 21, 1992 issue of Legal Times (p. 9), the ACT-UP poster engendered a strong response from Yale Law School Dean Guido Calabresi, who wrote the following in a letter to all Yale law students:

A poster has gone up on the wall that I find to be exceedingly vulgar and disgusting. That is more than too bad. It is an abuse of freedom! The person who put that poster up was, in my judgment, self-indulgent and unnecessarily crude, and I feel no qualms in saying so. I hope others of you will, while respecting that person's right to speak, also say so.

Legal Times reports that the poster was subsequently ripped down by two undergraduates, who were referred for disciplinary action. "At that point, everyone in the law school rallied around," said Calabresi. "This was our place, and they had interfered with our debate."

Calabresi is reportedly pleased with the dialogue he initiated. He told Legal Times that it "was quite a wonderful learning experience. But like all learning, it was painful."

Practice implication: It's perfectly legal—and almost always more effective—for campus administrators to aggressively challenge and condemn rather than formally punish offensive expression. For another example of a similar technique, see the excerpt "Responding to racist expression—without censorship—at Arizona State" in the Winter 1991 issue of Synthesis: Law and Policy in Higher Education, p. 238.

ETHICS / CURRICULUM

Can ethics be taught?

There have been many media reports about the Josephson Institute of Ethics' most recent findings regarding ethical shortcomings of American youth (see e.g., "Study says cheating has replaced the three Rs" in the November 13, 1992 Chicago Tribune, p. 1). What is often missing, however, is consideration of how American educators frequently fail to provide any moral instruction to students.

This topic is touched upon briefly in the January 14, 1993 Christian Science Monitor (p. 1). The Monitor revisited the widely reported story of how members of the Texas Southern University marching band were caught stealing $22,000 worth of electronic equipment while on a trip to Tokyo. It then reported how Texas Southern responded to the incident:

...a spokesman for Texas Southern University said the band's behavior was 'totally incomprehensible,' and that many band members were being reprimanded, suspended, or expelled. But the university has no plans to use the incident as a trigger for discussions about right or wrong. "A committee has been established to look into student travel," [the TSU spokesman] says, "and that may include sensitivity training about other cultures."

Practice implication: There is much to be said for cultural sensitivity training, but it does not offer solutions to all of life's problems.

Human beings are uniquely "ethical" animals (see Syntax Weekly Report 93.15, below). Our capacities in that regard—just like our capacities for academic and athletic achievement—require instruction and practice.

One form of ethical instruction was demonstrated by Yale Law School Dean Guido Calabresi's response to an offensive poster displayed on his campus (see 93.12, above). Another is using great literature as a means to identify and reaffirm—both through reason and emotion—those virtues that are recognized in virtually all cultures (e.g., self-restraint in the interest of others).

Learning the "habit" of moral behavior is an equally important component of ethical instruction. This view is rooted in Aristotle's ethics, and remains very much alive in philosophical circles (see, e.g., Iris Murdoch's new book Metaphysics as a Guide to Morals). It can be undertaken on campus, for example, by the careful development of honor systems and disciplinary codes that actively involve students in defining, teaching, and enforcing community values.

This perspective about the teaching of ethics has implications for staff members working in residence halls and in dean of students' offices across the country. We think their professional training should include more than an introduction to moral development "stage" theories, and techniques to promote "values clarification." We also recommend rigorous course work and on-going reading in literature (see, e.g., Robert Coles' suggestions in his Fall 1981 Daedalus article "On the nature of character," p. 131), and in the ethical theories of the world's great philosophers.
**Feminism and universal law**

Those who think respect for cultural diversity is the same thing as moral and cultural relativism will be puzzled by an important trend in the women's movement in America: an appeal to universal moral principles to stop mass rapes in Bosnia.

The January 15, 1993 *New York Times* (p. B16) reports that University of Michigan law professor Catharine MacKinnon and other American feminists are working with international human rights groups to define rape as a human rights offense. The *Times* states that the groups:

... are exploring the idea of helping individual women file complaints under the Convention Against Torture... They say they were also considering the possibility of filing charges against wrongdoers who come to the United States, using the concept of universal jurisdiction, which holds that certain crimes against humanity may be tried anywhere.

**Practice implication**

College students can be genuinely confused by the frequent use of unexplained terms like "cultural diversity." The adolescent mind is prone to interpret such language to mean that one set of cultural values is as good as any other. Sooner or later this perspective leads directly to the philosophy of the late Professor Goebbels, who proclaimed that "truth is what serves the German people."

One of the most significant intellectual developments in our lifetime is a reassertion of a belief in some form of universal moral law. This perspective is being fostered not only in reaction to the horrific events of the 20th century, but also because most specialists in human development share the late Erich Fromm's conclusion that:

... there are immutable laws inherent in human nature... which operate in any given culture. These laws cannot be violated without serious damage to the personality... The problem of mental health cannot be separated from the basic human problem, that of achieving the aims of human life: independence, integrity, and the ability to love... (Cited in Ralph Henry Gabriel *The Course of American Democratic Thought*, p. 470).

We suggest discussion of two simple, but important questions at one of your upcoming faculty or staff meetings: "When we say 'cultural diversity' on campus, do students hear 'cultural relativism'?" If the latter is not our objective, how do we correct the misunderstanding?"

**The mystery of altruism**

Harvard Professor Stephen Jay Gould is well known, among other things, for his view that evolution is not an inevitable, linear progression leading to human beings. This view discredits religious fundamentalists, among others.

Professor Gould appears careful, however, to avoid any suggestion that science has the answers to some of the most challenging questions about human life and human nature. Why, for example, are human beings sometimes willing to risk their lives for individuals not related to them, or even for other animals?

Gould observed, in a letter to the editor that appears in the January 14, 1993 *New York Review of Books* (p. 44), that:

... [I]n most cases, I concur... that a claim for human difference only represents the peculiarity of an odd species... But altruism falls into a different category of intrinsically human conundrums because its classical moral and philosophical focus has not been addressed by the evolutionary solution: why are humans so prone to perform acts that both benefit others and endanger themselves. The evolutionary argument holds that animals perform such altruistic acts toward relatives who share enough of their genes to render the potential sacrifice beneficial to the altruist's genetic heritage. But since most human acts of human altruism are performed in the service on non-kin, this explanation cannot hold...

Within the little community of professional evolutionists... the gene-selectionist account of "altruism" matters greatly, but we cannot and dare not claim that we have thereby solved the classic philosophical issue generally encompassed by [that] word.

**Editor's note:** Human altruism, along with the surprising degree of order in the world about us, are two great mysteries. No one expressed this better than Immanuel Kant in his *Critique of Pure Reason*; "[T]wo things fill my mind with ever increasing wonder and awe: the starry heavens above me and the moral law within me." It is remarkable and regrettable that these matters appear to be discussed so infrequently both in and out of our classrooms.

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**Synfax Weekly Report** is edited by Gary M. Pavlica and published weekly by Synfax, Inc. except December and August. © 1993 by Synfax, Inc. For information contact: Synfax, Inc., M.A. Potts, managing editor, 1882 Harcourt Ave., Crofton, MD 21114 or phone (410) 721-7011. One year subscription: $185. Campus subscriptions (25 copies): $635.