

THE 21ST CENTURY STUDENT- UNIVERSITY RELATIONSHIP

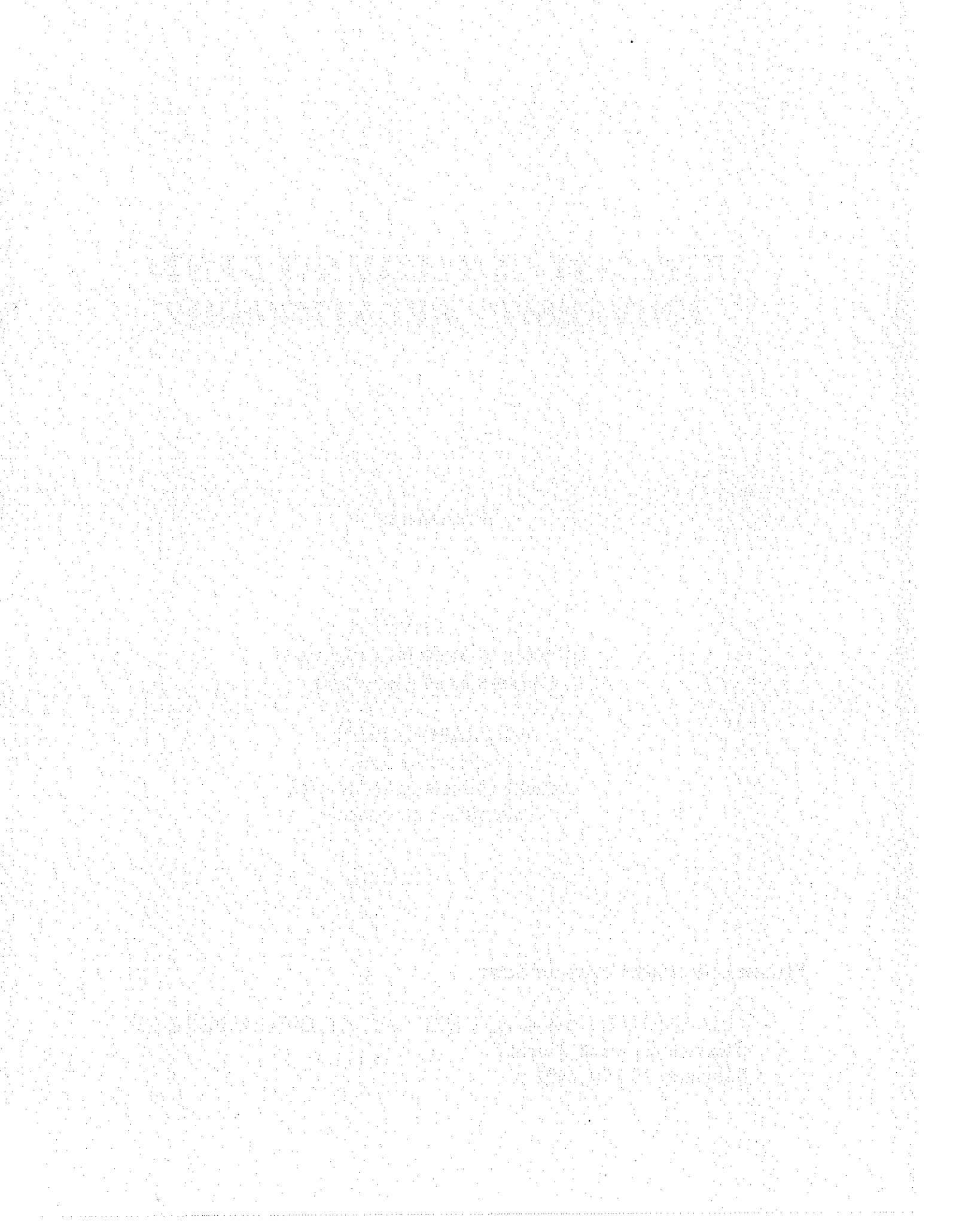
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22nd ANNUAL LAW & HIGHER EDUCATION CONFERENCE
Clearwater Beach, Florida
February 18 - 20, 2001



The 21st Century Student-University Relationship*

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A. Introduction

Colleges and universities are in the midst of profound change. The likely prospect is that institutions of higher education will be educating larger numbers of students (many non-traditional), relying on the home, the workplace, or off-campus learning centers as the site of education; using ever-expanding new technology, and placing greater reliance upon internships and cooperative learning, in close partnership with government, business, and local community institutions. Education for the majority of younger people may become more vocational, taught by practitioners, while education for older people may focus more on the liberal arts. Over time, when students do appear on campus, more of them will be older than many student affairs professionals and faculty members. Also, when reference is made to "campuses," most students will think first of community colleges.

Many of these changes are welcome. Others may contribute to a harmful process in which more Americans lead lives of isolation, disconnected from serious personal dialogue and other efforts to gain a broader understanding of the world, and with a diminished sense of social trust and social commitment.

Although a change in orientation will be required, it remains within the power of colleges and universities to reduce the growing sense of fragmentation and alienation in American life. This objective may prove even more important than the contributions universities provided to national security during the cold war. Much depends, however, on how we re-define our goals and our relationship with students in the 21st Century.

B. 1990's higher Education trends that will influence the new century

Numerous trends and developments are not only leading to new legal challenges for colleges and universities, but are also fundamentally changing the way that they operate. The Internet and the World Wide Web, for example, have opened virtually unlimited channels of communication and information for faculty, staff, and students. In turn, the development of web sites, the mushrooming use of Internet e-mail by faculty and students for both pedagogical and personal purposes, and the growth of computer and telecommunications-assisted distance learning have spawned new challenges regarding intellectual property; free speech; harassment, invasion of privacy, and defamation via the Internet; academic misconduct and plagiarism; and a multitude of other issues. These challenges have caused institutions to review, and sometimes modify, many of their existing policies, instructional methods, and operating procedures.

"Traditional" institutions of higher education, typically nonprofit entities, are facing competition from new forms of profit-making institutions, such as the University of Phoenix and the Devry Institute. These organizations may offer classroom-based instruction as well as distance learning, and are popular with adults who wish to earn a degree while working full time. Other organizations provide alternative programs for professionals interested in developing "practical" expertise. For a description of some of these programs, see Goldie Blumenstyk, "Turning a Profit by Turning Out Professionals," *Chronicle of Higher Education*, January 7, 2000, A46; and Edward Wyatt, "Investors See Room for Profit in the Demand for Education," *New York Times*, November 4, 1999, A1.

Distance learning has enormous implications for colleges and universities. Public, private nonprofit, and profit-making institutions have developed Web-based degree programs that are available online to students anywhere in the world (Gordon C. Winston, "For-Profit Higher Education: Godzilla or Chicken Little?" *Change*, January/February 1999, pp. 13-19). Many colleges have scrambled to develop their own online programs out of concern that the market for traditional, campus-based programs will shrink as online degrees proliferate. The rapid movement into distance learning has caused concern among faculty about issues such as faculty ownership of curricular materials, faculty control over the creation, provision, and updating of online courses, and course quality. The American Association of University Professors has addressed these issues in several policy documents and guidelines; these are available on the AAUP Website: <http://www.aaup.org>. The *Chronicle of Higher Education* devotes a section of its news coverage each week to distance learning issues, and also maintains a large archive of background stories on for-profit ventures in distance learning; see <http://chronicle.com/weekly/indepth/forprofit.htm>.

Another trend with special relevance for postsecondary education is the dialogue on the continued propriety of faculty tenure. Many legislators, some college presidents, and occasionally a few faculty members assert that tenure is unnecessary and that other systems that do not guarantee lifetime job security can still protect academic freedom (see, for example, Richard Chait, "Thawing the Cold War Over Tenure: Why Academe Needs More Employment Options," *Chronicle of Higher Education*, February 7, 1997, B-4; compare Matthew W. Finkin, *The Case for Tenure* (Cornell Univ. Press, 1996), which defends traditional tenure systems. And some institutions, such as Bennington College, have eliminated tenure without suffering a loss of student enrollment (Robin Wilson, "Bennington After Eliminating Tenure, Attracts New Faculty Members and Students," *Chronicle of Higher Education*, January 10, 1997, A-10). Other institutions have considered modifying their tenure systems but have encountered substantial faculty resistance (William H. Honan, "University of Minnesota Regents Drop Effort to Modify Tenure," *New York Times*, November 17, 1996, p. 21). Post-tenure programs have also become more prevalent, and the debate appears to be shifting from the propriety of such reviews to the most appropriate procedures for post-tenure review.

While the debate continues on whether tenure should continue to exist and if so, in what form, the proportion of tenured faculty is shrinking on many campuses. The proportion of part-time faculty continues to increase; a study by the U.S. Department of Education found that 42.5 percent of all faculty working in 1997 were employed part-time, compared with 22 percent in 1970 (Courtney Leatherman, "Part-Timers Continue to Replace Full-Timers on College Faculties," *Chronicle of*

Higher Education, January 28, 2000, p. A18). As their numbers increase, part-time faculty members have begun to seek improvements in their pay and benefits. Some have formed unions, while others have turned to litigation ("Part-Time Faculty Members Sue for Better Pay and Benefits," *Chronicle of Higher Education*, October 15, 1999, p. A16). And colleges have increased the number of full-time, non-tenure track faculty positions as well, according to a study by Jay Chronister and Roger Baldwin (Courtney Leatherman, "Growth in Positions off the Tenure Track is a Trend That's Here to Stay, Study Finds," *Chronicle of Higher Education*, April 9, 1999, p. A14). This "two tier" system appears to be a response to criticism from accreditors concerning the heavy use of part-time faculty.

Although the proportion of faculty who are women is increasing slowly, women still lag behind men at the tenured and full professor ranks, and even senior women may face inequitable working conditions. A study by women faculty in the sciences at MIT concluded that women faced bias in salary, laboratory space, and other working conditions. The leadership of the institution has pledged to improve working conditions for women faculty. Robin Wilson, "An MIT Professor's Suspicion of Bias Leads to a New Movement for Academic Women," *Chronicle of Higher Education*, December 3, 1999, p. A16.

Student and faculty demographics continue to change as the U.S. population's diversity is increasingly reflected on campus. The U.S. population is aging (the median age was 32.9 in 1990, compared with 30.0 in 1980); this change is reflected in college enrollments, where the proportion of college students age 40 or older doubled from 1970 to 1993 (*Life After 40*, Institute for Higher Education Policy and Education Resources Institute, 1996). It is also reflected in the age of college faculty. A 1999 survey found that nearly one-third of full-time faculty were age 55 or older (Denise K. Magner, "The Graying Professoriate," *Chronicle of Higher Education*, September 3, 1999, p. A18). With respect to race and ethnicity, the population is becoming more diverse. White, non-Hispanics were 69% of the U.S. population age 18 and under in 1990; they will be 61% of that cohort by the year 2005. African-Americans will increase from 15% of the population under age 18 (1990) to 15.6% by 2005. Hispanic youth, who comprised 12.2% of the under-18 population in 1990, will comprise 17% by 2005 (Census Data, reported in Janice Hamilton Outtz, "Higher Education and the New Demographic Reality," *76 Educational Record* 65 (1995)). These demographic realities exacerbate the tensions over college admissions and hiring issues, given recent judicial rulings in discrimination and affirmative action cases.

Concern about the proportion of minority students in both undergraduate and postbaccalaureate programs continues. Although enrollment of minority students in California declined the first year after a state referendum outlawed affirmative action in college admissions, admissions increased in 1999, although not to the levels that they were prior to the outlawing of affirmative action (Jeff Sharlet, "Minority Admissions Rebound at U. of Cal." *Chronicle of Higher Education*, April 16, 1999, p. A40). Some states, such as Texas, have passed laws instructing public colleges to admit the top students from each high school class, a strategy intended to improve the opportunities of students from predominantly minority schools to attend college. As institutions struggle to find ways to enhance the diversity of their student bodies, they are also trying to increase enrollment figures for

a new minority--men. Women comprise 55 percent of all college students, and their proportions are even higher at some selective institutions. A larger proportion of women graduate from high school, and women tend to earn better grades in high school than do men. A college that attempted to use gender preferences for male students, in an attempt to achieve gender balance in admissions, has faced litigation (Dan Carnevale, "Lawsuit Prompts U. of Georgia to End Admissions Preferences for Male Applicants. *Chronicle of Higher Education*, September 3, 1999, p. A-68).

The increasing diversity of campus populations and an apparently increasing litigiousness in all sectors of campus life have led to increased conflict. Concern about the persistent problem of underage drinking has resulted in greater regulation of Greek organizations and other social clubs, as well as increased litigation against fraternities for the tragic consequences of underage drinking, fraternity hazing, and driving while intoxicated. Although some hate speech codes have been held unconstitutional, institutions continue to struggle to enforce laws and policies that prohibit harassment based on race, gender, and religion, and simultaneously to protect free speech and academic freedom on campus. Gays and lesbians are becoming increasingly vocal as they seek parity with heterosexuals with respect to funding for student organizations, employment benefits and campus housing for same-sex couples, and equal access to careers in the military. The classroom has increasingly become the venue for academic freedom disputes involving both students and faculty; a particular focus has been sexual harassment claims against faculty members based on classroom comments or assignments. Students with disabilities--particularly learning disabilities and emotional conditions-- are challenging faculty and administrators' judgments with respect to course requirements, evaluation formats, and assignments. And graduate teaching assistants are clashing with faculty and administrators on many campuses over work assignments, the right to unionize, and the right to strike (Courtney Leatherman and Denise K. Magner, "Faculty and Graduate-Student Strife over Job Issues Flares on Many Campuses," *Chronicle of Higher Education*, November 29, 1996, A-12).

Postsecondary institutions are finding that their legal liabilities are extending beyond the boundaries of the campus. For example, students enrolled in "internships" or "externships" for academic credit have sought to hold the institution liable for physical and/or financial injuries related to their off-campus experiences. Similarly, students involved in study-abroad programs, or even field trips, have looked to the institution for redress when problems have occurred. The advent of the Internet has the potential to involve an institution in legal problems on the other side of the globe, even if the institution has no physical presence there.

Many colleges are becoming more aggressive in responding to behavior problems on campus, whether the instigator is a student or an employee. Concern over binge drinking and alcohol poisoning has motivated several institutions to forbid such rituals as Princeton University's "Nude Olympics" (held during the first snowfall of the winter and fueled with alcohol). Concern has increased regarding date rape, sexual assault, sexual harassment, and homophobic behavior. Colleges are training faculty, staff, and students on appropriate responses to sexual, racial, and other harassment on campus, and are disciplining or firing employees found to have engaged in harassment.

Paralleling all these increases in conflict and potential liability is an increase in the range of dispute-resolution forums used by institutions and members of the academic community. The attention given to mediation, especially, seems to grow each year, and frequent questions now arise about complainants' rights--or obligations--to resort to an alternative forum before, or in lieu of, trials and formal hearings.

In short, pressing law and policy issues will continue to expand their reach into higher education's affairs in the 21st century. Societal developments and technological breakthroughs will be mirrored in the issues, conflicts, and litigation that touch colleges and universities. The work of administrators will become even more demanding, the job of the university counsel even more challenging, and the work of scholars and students of higher education law even more fascinating, as these trends and developments combine and are played out in American higher education.

C. An historical perspective on student-university relationships

"In loco parentis" has been the dominant theory defining the relationship between students and colleges in America, at least until the 1950s and 1960s. It was compounded by the rural setting of many American institutions, and the need to provide supervision for young students far from home.

In loco parentis--especially the variety exercised by detailed regulation of student life--has now been discredited in theory, and to a lesser extent in practice. The transformation occurred over four decades, and probably started with the enrollment of G.I.s after World War II. It was advanced by the civil rights movement, the campus rebellions of the 1960s, the growth of Clark Kerr's "multiversity", the lowering of the age of majority, the expansion of adult education programs, and--until recently--a distrust of any assertion of general moral standards. All helped to give students procedural rights and a degree of personal autonomy previous generations had never known.

The momentum for greater student rights was accelerated in the late 1970s and 1980s by the consumer protection movement. Students began to see themselves as "customers" seeking "services"--a view reenforced by federal and state legislation protecting student privacy, and requiring that "consumer information" about financial aid, campus security, and other services be made available to applicants for admission.

D. Risk management or student development?

Ironically, the view of students as "consumers" has started a process in which the expanded notion of student rights is being circumscribed. Concerns about campus safety and security have prompted some colleges to try to set stricter standards for student conduct, or to disassociate themselves from student activities (especially fraternities) altogether. What confuses and troubles student affairs administrators is the fact that these trends are driven largely by risk management theories, not any

effort to promote student development. See W. Kaplin, "A Typology and Critique of Title IX Sexual Harassment Law After *Gebser* and *Davis*," 26 *J. Coll. & Univ. L.* 615, 641-643 (2000).

Many student affairs administrators remain convinced that most traditional-aged students are caught in a "middle" stage of development, somewhere between adolescence and full adulthood. This perspective is shared by prominent author and psychiatrist Willard Gaylin, who voiced it at the close of a November 1989 Synthesis interview:

Our society is creating dependent children well into their twenties, if not their thirties. Yet more and more we're treating them as though they are autonomous adults. We are taking children and throwing them into a particularly cold and detached environment at major universities . . . There is, I think, an extraordinary avoidance of the fact that you're dealing with essentially a not-yet fully-mature population. Universities need to come to grips with the fact that in this autonomous time, paternalism may be unattractive, but necessary ("Mental Illness and Personal Accountability," p. 53).

Willard Gaylin's advice probably won't be followed if it is seen as a call for a return to *in loco parentis*. Likewise, the type of control he advocates--grounded in an environment committed to the intellectual and moral development of students--doesn't fit the "risk management" mentality. College administrators who share his views, and who also seek to promote a view of college as a principled community serving students of all ages--need other models.

E. The Bickel and Lake "facilitator" model

In *The Rights and Responsibilities of the Modern University*, (Carolina Academic Press, 1999) Robert Bickel and Peter Lake argue for the concept of the university as "facilitator." The "facilitator" university--like the model suggested by the Delaware Supreme Court in *Furek v. University of Delaware*, 594 A.2d 506 (Del. 1991)--recognizes that students and parents see safety and security as part of the "bundle of services" expected on the modern college campus; sets reasonable rules and consistently tries to enforce them; responds promptly to small infractions, using progressive discipline to guide and educate students; maintains its property with care, in light of the special characteristics of the collegiate environment, and gives a high priority to "shared community thinking" in the inevitable process of balancing individual rights against community interests.

There are valuable insights in Bickel and Lake's "facilitator" model. Above all, they recognize traditional-age students need guidance and structure. This is a perspective we share, and have elaborated upon elsewhere (see Pavela, "Today's College Students Need Both Freedom and Structure," *The Chronicle of Higher Education*, July 29, 1992, p. B1):

[I]t's time to give a new name to college students who are between the ages

of 18 and 21. The term "adolescents" does not do them justice. Calling them "young adults" suggests a level of maturity that many do not possess. [They should], instead, [be] call[ed] "post-adolescent pre-adults" or PAPAS, for short. Awkward as that terminology may be, it also describes the legal relationship that may be evolving between institutions of higher education and traditional-age college students . . .

Those calling for greater responsibility over student life made only modest progress in the 1970s and early 80s. Ironically, however, their message is now being reenforced and amplified by the same consumer protection movement that contributed to the expansion of student rights a decade ago. State legislatures and Congress have expanded the concept of consumer rights in recent years, requiring colleges to provide students with information about the extent of campus crime and the scope of state and federal laws against alcohol and drug abuse. But such statutes frequently go well beyond setting guidelines for reporting information to students. They also contain explicit or implicit requirements that specific disciplinary policies--like restrictions against underage drinking--be adopted, enforced, and monitored by colleges to protect students and members of the public.

Through such mandated enforcement of governmental social policies, the "consumer" of college services is being redefined by statute and common law to include not only students, but society as a whole. This process probably will not produce a return to the days of colleges acting in local parentis . . . but the final result may be close to it. The national trend toward greater college accountability for students' behavior is reinforced by a long-standing concept that college administrators occasionally forget: Colleges own and manage property, and the courts hold them responsible for foreseeable events on that property . . .

The Bickel and Lake "facilitator" model recognizes that college has become a rite of passage for many traditional age students. Those students need (and often expect) to be challenged to adhere to a higher standard of behavior. Doing so requires a careful balance of education, suasion, guidance, and consistent rule enforcement, grounded in the view that a libertarian student culture can be changed. The key--for the facilitator university--is the avoidance of passivity, and rejection of the idea that "because some student injury is inevitable all reasonable and positive avenues of protecting students are cut off" (Bickel and Lake, p. 177).

Bickel and Lake acknowledge that a "facilitator university . . . respects the voluntary association that is the core of the college community" (p. 210). They seem to postulate, nonetheless, a generally "command" style of management--capable of ordering campus judicial systems, for example, to stop "fiddl[ing] with due process that exceeds constitutional/contractual minimums . . ." (p. 143). How the desirable goal of eliminating campus proceduralism can be achieved isn't clear, given the fact

students expect substantial procedural protection, and pursue their interests from positions of power on campus.

F. The "association" model

In strict legal terms, colleges and universities are corporations (or sometimes state agencies). However, for many academics, the words "corporation" and "agency" have a hollow ring, suggestive more of legal powers and responsibilities than human relationships. A better description of what most colleges aspire to create (even those within multiversities) is a community, sharing at least some essential values and commitments. At heart, this "community" is a "voluntary association" of individuals "presumed to be equally interested in promoting the welfare of the association. . ." (6 Am Jur 2d "Associations and Clubs" 20, p. 446). Examples of voluntary associations include local, state, or national medical societies, and groups like the League of Women Voters, the National Urban League, and the Rotary.

Unlike the early guilds of students and professors, the American association is typically outward looking. Many exist for reasons that go beyond protecting a particular class or occupation. Some start with the goal of helping individual members, but link that goal to a broader social commitment. While membership in an association is voluntary, members normally have duties or responsibilities, specified in rules or bylaws, and enforced through a disciplinary process. Sometimes the rules or bylaws are considered to be terms of a contract to which all members assent when they join the association. The fact that an association sets professional or ethical standards does not make it vicariously liable when members (not acting as agents of the association) violate them.

It's easy to think of colleges as voluntary associations, because--in the narrow sense of guilds--that's how some of the most ancient colleges were established. There are also many modern examples, including an example from the school setting: the relationship between the well-known math teacher Jaime Escalante and his students, depicted in the film *Stand and Deliver*.

Many observers would not see Escalante and his students as an "association" at all. Still, on a small scale, they show how the concept of voluntary association can fit in an educational setting, even when students are not accustomed to having academic demands placed on them.

Those who saw the film *Stand and Deliver* will recall that Escalante appeared to be remarkably successful in improving both the math skills and personal deportment of a group of disadvantaged high school students. He did so by setting high expectations for the students, and working tirelessly with them to improve their skills and attitudes. At the heart of Escalante's approach was a contract--a commitment by each individual student to do all the extra work required (including some painful Saturday review sessions) in order to meet a shared performance goal. Also implicit in the effort was a broader social commitment: the desire to demonstrate to other students in similar circumstances that academic success was possible and desirable.

On a larger scale, with minor variations, the personal and social goals reflected in the "association" of Mr. Escalante and his students are precisely what the best American colleges try to accomplish with college students of all ages and backgrounds. At the same time, however, the personal and social goals of association are also precisely the goals whose achievement will be challenged by technology's dispersion and "impersonalization" of educational settings.

G. What "principles of association" can colleges affirm?

(1) Those who associate in the college community are committed to the pursuit of truth. The "truth" pursued may be large or small--or, ideally, a combination of both. The questions asked might include whether there is a broader meaning in life; how a "good life" should be defined; what obligations individuals have to the larger society (as well as past and future generations); how people can better understand the feelings and emotions of others; and what knowledge, technical skills, interests, and habits must be acquired to do productive, and satisfying work.

When we talk about the "pursuit of truth," emphasis must be given to the word "pursuit." Bitter experience has shown that even the most cherished truths have to be seen as hypotheses--although we still have to act and rely on them. The contrary perspective--that all essential truths are known--produces intellectual stagnation, and a tendency to demonize those who disagree.

It's equally harmful, however, to assume no truth exists, or is entirely relative, depending on who has the power to define it. The view held by the late Professor Goebbels that "truth is what serves the German people" typifies the nihilism that led straight to the Holocaust. Similar opinions--not supported by reference to Professor Goebbels, of course--were routinely expressed as accepted wisdom by many intellectuals in the late twentieth century, including many on American college campuses.

(2) The pursuit of truth is guided by a process. The habits and discipline associated with the scientific method are the best way we know to discover truth. Some worry that the scientific method precludes the use of intuition, but that reflects a misunderstanding of the avenues available to forming a hypothesis. As Einstein and other scientists have demonstrated, the process by which a hypothesis is formed is usually intuitive, and often associated with a sense of beauty. At heart, following the scientific method means engaging in self-examination, honestly sharing information with others, and welcoming constructive criticism.

(3) The nature of our goal, and the process we use to pursue it, are molded by a permanent duty: to honor those who preceded us, and to leave a better world to those who will follow. In this sense, the voluntary association we create in college is simply a microcosm of the grandest association of all: the succession of human generations.

H. What virtues need to be affirmed?

Principles affirmed in theory in higher education have to be applied in practice. Doing so requires certain virtues and qualities of character. Those that seem especially important at the start of the 21st century are:

(1) **Honesty.** It follows naturally that our goal of pursuing truth requires honesty. Wilfully deceiving ourselves or others defeats the objective of trying to gain a better understanding of the world, and our role in it.

(2) **Respect and civility.** Fully developed human beings are truth seekers, guided by reason and conscience, equipped with the capacity for communicating complex ideas in the present and over time, through the creation of culture. No other animal has a similar stature. However we came to be, and for all our imperfections, we are miraculous creatures, and we owe each other respect and civility.

(3) **Self-restraint.** Plato and Aristotle had some profound disagreements, but they shared the view that the foundation of ethics is self-restraint. Self-restraint is especially important to the academic enterprise, since we have to have the mental discipline to examine our own ideas, reject them if they don't work, and start again, with a new or refined hypothesis. This process can be a sharp blow to the ego, and intensely painful. But those who persevere display the greatest integrity, and become some of our grandest heroes.

(4) **Empathy and compassion.** Reflecting upon the succession of generations, as described by John Dewey, should enhance an appreciation of the struggles and suffering of others. Doing so will also help us remember our capacity for error, and the complex realities of human nature--nicely summarized by Martin Luther King's observation that "each of us has two selves, and the great burden in life is to keep the higher self in command." If moral perfectionism is our goal we will inflict needless pain on others, and make hypocrites of ourselves. The best we can expect--given the fact we live on Earth, not in Heaven--is a determined effort to follow the highest commands of reason and conscience.

(5) **A sense of responsibility.** Our object, as social animals, goes beyond simply trying to enhance our own personal and moral development. Recognizing a succession of generations means honoring those who preceded us by actively working to make a better world.

I. A renewed focus on student ethical development

Whether by their own initiative, the demands of parents, or some combination of both, attitudes of school administrators and teachers are changing quickly. One of the fastest transitions in American education has been from "values clarification" to the movement for character education in the schools. A major impetus for the character education model is Ernest L. Boyer's book *The Basic School*

(Carnegie Foundation, 1995). Boyer's model of the "Basic School" is a community that "affirm[s] its *own commitment to character*," by promoting seven virtues: honesty; respect; responsibility; compassion; self-discipline; perseverance; and giving (pp. 183-184).

More students who have completed character education programs will be coming to colleges. We need to build upon the foundation they have been given. Our approach should include habituation, but must expand to include critical examination--a process in which ethical values are refined, better understood, and adopted as one's own.

An ethical development program at the college level might include:

(1) A clear statement of community values, including academic honesty, civility, and respect for freedom of thought and expression. A values statement should be contained in literature describing the college to prospective students, and included in the application for admission. Also, if we think of a college as a voluntary association, we might revive the process by which students are "matriculated" or "formally installed" into our association--ideally by some sort of ritual or signing ceremony at orientation.

(2) Treating our statement of values as more than stale dogma. John Stuart Mill argued that freedom of expression needed to be protected so that our most cherished values could be questioned, enlivened, reaffirmed, or transformed in the crucible of debate. We should discuss our rules with students, listen to their concerns, and make changes as needed. Various aspects of the Honor Code at the University of Virginia, for example, are regularly debated and voted upon by the student body. These votes and debates haven't threatened Virginia's Honor Code tradition; they've helped to keep it alive.

(3) Asking students ethical questions, both in and out of class. One of the greatest failings in higher education is the failure to discuss ethical issues, outside a few specialized courses. There are many opportunities to pose questions that encourage ethical thinking--like asking a student whether a career she is contemplating will promote a "good" life, and how a "good" life might be defined. Other subjects also invite provocative inquiries--like whether emotional commitment should accompany sexual relationships.

(4) Role Modeling. Faculty members and administrators become role models not by trying to display the impossible quality of moral perfection, but by committing themselves to worthwhile goals, engaging in community service, displaying courtesy and empathy, and honestly admitting errors and shortcomings.

(5) Giving students significant responsibility to manage their own affairs. Professor Donald L. McCabe at Rutgers University has conducted extensive research on self-reported academic dishonesty by students. He found that significantly less cheating occurs at honor code schools, compared to comparable schools without honor codes. An important

conclusion is inescapable: student behavior can be influenced by the campus environment, especially when we give students significant authority and responsibility to influence their peers.

(6) Encouraging the development of empathy. Ethical reasoning does not lead inevitably to ethical action. As Samuel and Pearl Oliner wrote in *The Altruistic Personality: Rescuers of Jews in Nazi Europe* (Free Press, 1988), those individuals who risked their lives to save Jews from the Nazis were encouraged at an early age to see "the basic universal similarity of all people" (p. 143). With that foundation, what distinguished the rescuers was not academic training in logic or morals, but the habit of making "connections with others in relationships of commitment and care," and treating "ordinary people" with civility and courtesy (p. 259-260). These are characteristics we can foster, by emphasizing the fundamental similarity, as well as the diversity, of people; by giving students opportunities to work together in ways in which they learn to depend upon one another; and by encouraging, on a daily basis, simple acts of kindness.

(7) Creating environments where personal interaction can flourish. Stanford University President Gerhard Casper has written that:

[T]he residential version of the American college may have no equal . . . in challenging prejudices, and . . . in bringing about new ways of relating to one another. Its emphasis on socialization and peer interaction, in the eyes of many, make the college environment, as distinguished from the college curriculum, a formative and formidable experience that is valued in its own right, independently of any academic purposes. The right of passage is one reason, anthropologically speaking, Americans go to college . . . ("Come the Millennium, Where the University?" Spring 1995 Stanford Observer, p. 25).

If we are to remain dynamic, value-added associations, we will need to create and maintain physical environments where human interaction can occur in the richest and fullest sense. We will have to avoid turning our student unions, dining facilities, and residence halls over to fast food franchises, and private landlords--remembering that our primary duty goes beyond providing "services," and encompasses individual and community development.

(8) Promoting group bonding through service. Some form of bonding is likely to occur when colleges place large numbers of people in close proximity, especially in a society when there is an increasing sense of loneliness, and a desire for connection. The bonding will take place either in destructive cults, or dysfunctional fraternities--or in groups or communities dedicated to service. Colleges must help create and nurture the latter, sometimes by challenging student associations to adhere to their stated ideals; ideals which compliment--in theory--the principles expressed in our voluntary association.

(9) Enforcing reasonable rules. Colleges, like other voluntary associations, need to set and enforce reasonable rules and standards. Those rules and standards must be widely shared, and frequently discussed. When violations are proven, penalties must be imposed--including the penalties of suspension or expulsion. The imposition of just penalties is not an arbitrary act of cruelty, but a necessary way to affirm shared values, as well as the autonomy and personal responsibility of offenders. Ideally, after penalties are imposed, most offenders are welcomed back to the community, with a sense of forgiveness.

(10) Enforcing rules fairly. A sense of community and association cannot last if rules are enforced in an arbitrary manner. "Process values" must be respected. See W. Kaplin, *The Importance of Process in Campus Administrative Decision-Making*, IHELG Monograph 91-10 (Institute for Higher Education Law and Governance, Univ. of Houston, 1992). Procedural fairness is required more than procedural complexity. The heart of procedural fairness is treating others the way we would want to be treated, and hearing cases before deciding them.

J. Developing the "whole person": standards of student conduct off-campus

Opportunities for off-campus living and off-campus learning opportunities continue to expand. Non-campus based educational programs continue to increase. And colleges and universities are interacting more with the broader communities of which they are a part.

The December 12, 2000 *Christian Science Monitor* contains a thoughtful interview with Bates College President Donald Howard:

(http://www.csmonitor.com/durable/2000/12/12/fp15s1_csm.shtml)

Where are town-gown relations headed in the new century?

Within higher education, I think there's a more thoughtful reaction and attention to place, in terms of responsibility to place. That's translated into what I would call, simply: What's the right thing to do? It's not an examination of just what's in our institutional self-interest. And that notion flows from what it means to be an educational institution and to recognize that learning has a moral dimension, an ethic.... While that sounds high-minded, what it really means is that the ethic of education has all to do with seeing the responsibility of the privilege of learning.

Has that changed the mission of institutions somewhat?

No. Educational institutions' primary mission is learning. But more than ever before, they're realizing that devotion to that goal brings with it obligations to its place, its situation, and to the people and community of which it is a part.

There's always been a strong sense that colleges must be places apart. But the ivory-tower notion that intellectual activity must be separate, and values-independent, is changing. What we're now seeing is that colleges and universities can maintain this dimension of being contrarian, but also be engaged in the communities in which they are located.

Students will be spending more and more time off campus and within other communities. Questions will thus increasingly arise concerning colleges' and universities' regulation of student behavior when students are off campus or in non-campus based programs.

Colleges have broad authority to impose discipline for off-campus misconduct by students. See the comprehensive analysis and summary of cases in a 1989 *Opinion of the Maryland Attorney General* (89- 002 "Authority to Discipline Off-Campus Misconduct"). Excerpts appear in Synfax Weekly Report 99.50, p. 925.

There are, however, practical limitations with efforts to expand off-campus disciplinary jurisdiction. Witnesses may be uncooperative; physical evidence may be unavailable; or the location of the behavior may be too distant from the campus. There is also a danger that local communities will abrogate law enforcement responsibilities (and related expenses) if colleges readily assume a law enforcement function.

A desirable option may be the University of Delaware system, which provides for campus disciplinary action (within a limited geographical jurisdiction) if students are convicted of certain offenses in a local court. See Synfax Weekly Report 99.51, p. 927). In any event, colleges should always reserve the right to invoke an interim suspension pending the outcome of a trial if a student is charged with a serious criminal offense, indicating a possible danger to the campus community.

K. Higher education and the life of the spirit

There is a broad definition of the religious impulse that is usually devoid of formal creeds, structures, and observances, and encompasses a sense of and search for transcendence. It can be described as a feeling of wonder, mystery, and reverence for the universe; for life; and for the highest attributes of the human mind and spirit. Confusing this sensibility--which is better described as spiritual awareness--with narrower definitions of religion has the potential to stifle a broad range of expression and learning rightfully regarded as a foundation of wisdom.

Fine distinctions between traditional religion, spirituality, and art may not resonate in some sections of the academic world, but careful observers can see shifts in the climate of intellectual opinion. One good example is the influence of Harvard Professor Stephen Jay Gould in his 1999 book *Rock of Ages: Science and Religion in the Fullness of Life* (Ballantine). Gould argues that religion and science have different modes of inquiry, with science focusing on observation and measurement, and

religion relying on the spiritual, aesthetic and moral sense (including the highest forms of love) to answer broader questions of "why", including why human beings have any moral obligations beyond tribe or kin. Gould believes that science and religion are not inherent adversaries--and that each has been misused by the state, including a series of Popes who combined secular and ecclesiastical power. Above all, from Gould's perspective, science and religion are needed for true wisdom, since "any interesting problem, at any scale . . . must call upon the separate contributions of both . . . for any adequate illumination" (p.65).

There are lawful ways religious perspectives can be discussed and explored on public college campuses. See *SWR* 95.72: "A consensus on religion and the schools," p. 432. Essentially, colleges can teach about religion; introduce students to spiritual insights in art and literature; create opportunities for solitude and reflection; and protect the First Amendment rights of faculty members and students who wish to express religious perspectives, and associate together in religious communities.

Beyond pedagogy and tolerance, however, lies a deeper foundation, suggestive of the possibility that higher education itself shares essential traits of a religious or spiritual enterprise. One particular trait comes to mind: A conception of truth, independent of the state.

If the endless, perhaps not fully rational determination to discover truth partakes of a spiritual quest, the teacher becomes a spiritual guide. It would have been awkward ten years ago to have used such language, but changing attitudes toward religious sensibility and spiritual life make references to a spiritual component in teaching possible, perhaps essential. The best example of the transformation now underway in understanding the nature of teaching--and the value of broadly defined religious perspectives on campus --is Parker Palmer's highly praised book *The Courage to Teach* (Jossey-Bass, 1998):

. . . I believe that knowing, teaching, and learning are grounded in sacred soil and that renewing my vocation as a teacher requires cultivating a sense of the sacred.

I am well aware that the marriage of learning and the sacred has not always produced admirable offspring. But the history of education will show that spirituality is no worse than secularism in its propensity to sow bad seed. . .

What do I mean by sacred? It is a paradoxical concept--as one would expect in exploring the most profound truth of all. On the one hand the word points to an ineffable immensity beyond concept and definition . . . On the other hand, sacred means, quite simple, "worthy of respect. . ."

When nothing is sacred . . . banality is the best we can do. What could be more banal than to stand in the midst of this astonishing universe, sifting its wonders through reductionist screens, debunking amazement with data and

logic, and downsizing mystery to the scale of our own minds . . . ? (p.111).

L. An emerging competing model: The electronic university

A July 11, 1996 Washington Post editorial ("A No-Campus Campus", July 11, 1996, p. A24) captures the concerns of many observers about the advent of the "electronic university":

Is a University still a university if it doesn't have a campus? A group of western governors intends to test the proposition . . .

Universities provide something solid, a degree, to consumers who want it, but they also think of themselves as communities . . . [I]t's . . . a serious adjustment to imagine a university in which everybody, whether student, faculty or trustee stands at the arm's-length relationship of a customer . . .

A huge assortment of financial and practical pressures on university management of actual campuses . . . make the no-campus campus a tantalizing dream. On the other hand, ordinary pen- and-paper correspondence schools have existed for a long time because of similar pressures, and somehow the vast majority of would-be students continue to prefer the real thing. The virtues of the Virtual University may yet trump the familiar virtues of the other kind, but it will take more than plugging in a modem.

M. Are geography -- and community -- obsolete?

Careful observers can see a strange discontinuity in American life: While colleges are becoming more like businesses, businesses are becoming more like colleges. Art Levine, President of Columbia Teacher's College, sees "campuses" as anachronisms, but corporate America sees campuses (or something like them) as the wave of the future. Consider the following observation in a 1999 U.S. News and World Report article on new trends in office design ("The latte connections." March 29, 1999, p. 63):

Across the continent, CEOs have suddenly taken to dubbing their high-rise corridors "streets." And, rhapsodizing over holiday memories of Siena and Rome, they are ordering up inner-office "piazzas" with cappuccino bars--all the better to facilitate that oddly poetic new mantra of the management set: the "chance encounter." But that urban model is also emblematic of a larger shift--a fundamental about-face in the philosophy of workplace design that is changing traditional thinking about the nature of work and, in the process, the practice of architecture itself . . .

Suddenly, many [companies] are trying to lure staffers back from the cold and isolation of cyberspace to pool their brain waves and experience . . . Gene Ray of the Washington D.C. firm of Studios [says]: "The need to come back is more a need to network and create a community of understanding than it is to work. The office has become a social center."

This trend can also be seen in a series of high-tech companies--Prodigy, America Online, and Microsoft--creating and fostering corporate "communities" in central (physical) locations. Something similar is evident in exploding real estate prices around high technology corridors. If distance is irrelevant, why do so many people fluent in computers pay so much money to live and work together?

These workplace trends and their emphasis on association and community may yet spill over into higher education and provide a counterbalance to the emergent "electronic university."

N. Education and human evolution

The February 4, 2000 Wall Street Journal contains a long interview with Amazon.com chief Jeff Bezos ("Taming the Out-of-Control In-Box"). The interviewer received an unexpected answer to a question apparently designed to elicit new insights into the corporate world of the future:

WSJ: How do you work with your directors? Something tells me this isn't quite like U.S. Steel in the 1920s, with a long mahogany table and six-hour board meetings.

Bezos: We're actually a little old-fashioned in this respect. There's nothing better than an in-person meeting. Nothing yet has replicated that, as far as I know. For quick interaction e-mail and phone are great. But for really getting into something, a physical meeting is much better.

Why don't managers at one of America's leading online retailers meet online? The answer is that they--and the rest of us--are products of thousands of years of evolution. We have brains built for nuanced, richly textured forms of communication, designed to facilitate companionship and survival in small groups. Our minds can comprehend and manipulate certain aspects of the digital world, but we aren't designed to live there.

Research in cognitive science is moving about as fast as computer technology. That's good news, if we take advantage of it. What researchers on the brain are telling us has profound implications for the worlds we hope to create in the future. Steven Pinker, professor of psychology at MIT's Department of Brain and Cognitive Sciences, and author of *How the Mind Works* (Norton, 1997) writes in the May/June 2000 issue of *Technology Review* (www.techreview.com/articles/may00/viewpoint.htm) ("Life in the Fourth Millennium") that:

After decades of viewing the mind as a blank slate upon which the environment writes, cognitive neuroscientists, behavioral geneticists and evolutionary psychologists are discovering instead a richly structured human psyche. Of course, humans are ravenous learners, but learning is possible only in a brain equipped with circuits that learn in intelligent ways and with emotions that motivate it to learn in useful ways The mind . . . is powered by emotions about things--curiosity, fear, disgust, beauty--and about people--love, guilt, anger, sympathy, pride, lust. It has instincts to communicate by language, gesture and facial expressions. We inherited this standard equipment from our evolutionary ancestors, and, I suspect, we will bequeath it to our descendants in the millennia to come.

Some of the latest research on the brain is contained in the new book *A General Theory of Love* by University of California at San Francisco psychiatry professors Thomas Lewis, Fari Amini, and Richard Lannon (Random House, 2000).

Lewis, Amini, and Lannon pay special attention to the evolutionary structure of the brain: Reptilian (unconscious control center for bodily functions); limbic (center for advanced emotions); and neocortical (the abstract mind, including language and reason). Human beings require all three, if they are to remain alive, and distinctly human.

The digital world tends to focus on mathematical reasoning, fostering the view that the limbic brain is an unnecessary appendage. Lewis, Amini, and Lannon see that as a dangerous misunderstanding, and emphasize the unique capacity of the limbic brain not only to communicate with other minds, but to help shape them. This process--at least in its richest form--requires a physical presence; it cannot occur in an artificial world:

Some of our somatic systems are closed, self-regulating loops. Others are not. Consider, for instance, that women who spend time together frequently find their menstrual cycles coming into spontaneous alignment. This harmonious hormonal communication demonstrates a bodily connection that is limbic in nature . . . Evolution has given mammals a shimmering conduit, and they use it to tinker with one another's physiology, to adjust and fortify one another's fragile neural rhythms in the collaborate dance of love (p. 45).

What is teaching, and what is learning? Is the limbic brain involved, or only the neocortex? Most educators know the answer--and display their knowledge when they rely upon thousands of subtle (and not so subtle) clues to "read" their students: To sense and respond to frustration or comprehension; discouragement or commitment; boredom or joy. Education, in this sense, entails the most finely-tuned form of communication. It draws upon deep, ancient wells of human understanding, partaking of the "collaborate dance of love". Those who would leave it behind for an imagined electronic future may not comprehend the price they--and others--will be forced to pay.

*Portions of this outline are drawn from the authors' other writings, including Gary Pavela's NASPA White Paper: "The Power of Association: Defining Our Relationship with Students in the 21st Century."

