

CONTESTED ISSUES IN TROUBLED TIMES

Student Affairs Dialogues on
Equity, Civility, and Safety

Edited by

PETER M. MAGOLDA,
MARCIA B. BAXTER MAGOLDA,
and
ROZANA CARDUCCI

Foreword by

LORI D. PATTON



STERLING, VIRGINIA



COPYRIGHT © 2019 BY STYLUS PUBLISHING, LLC.

Published by Stylus Publishing, LLC.
22883 Quicksilver Drive
Sterling, Virginia 20166-2019

All rights reserved. No part of this book may be reprinted or reproduced in any form or by any electronic, mechanical or other means, now known or hereafter invented, including photocopying, recording and information storage and retrieval, without permission in writing from the publisher.

Library of Congress Cataloging-in-Publication Data

Names: Magolda, Peter Mark, editor. | Baxter Magolda, Marcia B., 1956-editor. | Carducci, Rozana, editor.

Title: Contested issues in troubled times : student affairs dialogues on equity, civility, and safety / [edited by] Peter M. Magolda, Marcia Baxter Magolda, & Rozana Carducci.

Description: First edition. | Sterling, Virginia : Stylus Publishing, [2019] | Includes bibliographic references.

Identifiers: LCCN 2018031035 (print) | LCCN 2019002475 (ebook) | ISBN 9781620368022 (Library networkable e-edition) | ISBN 9781620368039 (Consumer e-edition) | ISBN 9781620368008 (cloth : alk. paper) | ISBN 9781620368015 (pbk. : alk. paper) | ISBN 9781620368022 (library networkable ebk.) | ISBN 9781620368039 (ebk.)

Subjects: LCSH: Student affairs services--United States. | Educational equalization--United States. | Minorities--Education (Higher)--United States.

Classification: LCC LB2342.92 (ebook) | LCC LB2342.92 .C674 2019 (print) | DDC 378.1/97--dc23

LC record available at <https://lcn.loc.gov/2018031035>

13-digit ISBN: 978-1-62036-800-8 (cloth)

13-digit ISBN: 978-1-62036-801-5 (paperback)

13-digit ISBN: 978-1-62036-802-2 (library networkable e-edition)

13-digit ISBN: 978-1-62036-803-9 (consumer e-edition)

Printed in the United States of America

All first editions printed on acid-free paper
that meets the American National Standards Institute
Z39-48 Standard.

<p>Bulk Purchases Quantity discounts are available for use in workshops and for staff development. Call 1-800-232-0223</p>
--

First Edition, 2019

Passion and Policy: How Student Affairs Educators Navigate Their Roles in the Face of Legislative Restrictions

R. Bradley Johnson

The ability to work with and advocate for students is one of the primary reasons many student affairs educators choose to enter the profession. But as Parnell and Dunlap acknowledge, student affairs educators sometimes face challenges in their work when they must uphold state and federal laws and regulations while simultaneously serving as advocates for targeted and marginalized students on their campuses. Values such as altruism, equality, aesthetics, freedom, human dignity, justice, truth,¹ and community² have been identified by student affairs educators as foundational to their work. These values are sometimes challenged when legislative policies and actions impose restrictions on how students are supported on campus, threatening the sense of equity, safety, and civility upon which collegial communities are built.

I agree with Parnell and Dunlap's argument that the student affairs profession needs to increase its direct engagement in advocacy. Public policy advocacy can take many forms (e.g., social media posts, protest marches, calls to Congressional leaders). Depending on the type of institution where one works (public versus private), advocacy efforts may be subjected to regulation. For example, many public institutions have political activity guidelines in place that restrict the nature of political work carried out by an employee (e.g., no political activity during work time, no use of institutional resources to carry out political activity, no institutional apparel or use of institutional name by the employee that could be construed as endorsement of views by the institution). Even if a student affairs professional does wish to engage in public policy advocacy, exhausting work demands may limit their ability to become politically engaged beyond their institution. In these situations, it is important for student affairs educators to utilize institutional relationships and resources to navigate tensions between legislative action and professional

practice. In this essay, I draw upon the example of North Carolina's HB2 "Bathroom Bill" to illustrate both political tensions encountered by student affairs professionals and productive negotiation strategies.

Legislative Actions and Policies

Recent legislative actions have created politically charged campus environments that student affairs educators must navigate in their efforts to support and advocate for students. Examples of federal and state policy efforts demanding student affairs attention include President Trump's call to end the Deferred Action for Childhood Arrivals (DACA) program;³ federal travel bans targeting individuals from specific Muslim nations;⁴ state legislation authorizing guns on campus;⁵ and state policy attacks on the equity and safety of lesbian, gay, bisexual, transgender, queer plus (LGBTQ+) individuals.⁶

My home state, North Carolina, has encountered controversy and challenges associated with many of these legislative actions and policies. For example, North Carolina entered the national spotlight in March 2016 when state legislation was passed that severely threatened the rights of LGBTQ+ individuals within the state. The Public Facilities Privacy & Security Act, more officially titled "An Act to Provide for Single-Sex Multiple Occupancy Bathroom and Changing Facilities in Schools and Public Agencies and to Create Statewide Consistency in Regulation of Employment and Public Accommodations" (more commonly known as House Bill 2, HB2, or its nickname, "The Bathroom Bill"),⁷ was a piece of legislative action called "the most anti-LGBT law in the U.S."⁸ because of its power to override local ordinances concerning wages, employment, and public accommodations. HB2 consisted of five parts;⁹ however, the most controversial component and the one that garnered the greatest media attention addressed the use of public facilities (hence the nickname "The Bathroom Bill"). HB2 regulated the use of public facilities (i.e., bathrooms), mandating individuals use the bathroom corresponding to the sex on their birth certificate. The legislation imposed discriminatory regulations on transgender individuals, requiring them to use bathrooms that corresponded with their assigned biological sex, not the gender with which they currently identified. For its proponents, HB2 was intended to "prevent an imminent crisis of straight men putting on dresses to view women in women's restrooms."¹⁰ However, if implemented, this legislation would have required a transgender man (assigned female at birth) who was taking testosterone, had a full beard, and was dressed in men's clothes to use a female-designated bathroom. This situation would likely have been more shocking or surprising than if this same transgender man entered a male-designated bathroom.

An important part of HB2 was that there was no mechanism for enforcement articulated in the legislation nor were there penalties or consequences for anyone who violated the act. The president of the University of North Carolina (UNC) System, Margaret Spellings, noted the enforcement oversight in her response to the legislation on behalf of the UNC System, saying that HB2 was “hastily drawn, perhaps without fully considering all the implications” and that “if it were up to me, I would not recommend” the passing of the bill.¹¹ Although Spellings stated that the UNC system would follow HB2 (more specifically the public facilities use portion), in a memo to UNC system institutions, she indicated that “constituent institutions must continue to operate in accordance with their nondiscrimination policies and must take prompt and appropriate action to prevent and address any instances of harassment and discrimination in violation of university policies.”¹² At institutions which had adopted nondiscrimination policies, especially those that protected sexual orientation and gender identity and expression, transgender community members could be protected from the discriminatory state legislation by referencing institutional policy and interpreting the legislation from different perspectives. For example, an institution’s police or campus safety department could purposefully choose to not patrol bathroom facilities looking for violations of HB2. As illustrated in this example, when interpreting legislative actions and policies through the principles of social justice, equity, and nondiscrimination, student affairs educators can work with campus partners to navigate legal responsibilities while maintaining a safe and supportive community for all.

Navigating Tensions Between Professional Values and Legislative Actions

As a student affairs educator in North Carolina as well as a member and advocate for the LGBTQ+ community, the HB2 legislation deeply affected me on a personal and professional level. The discriminatory legislation presented my student affairs colleagues and me with the challenge of upholding our commitment to advocating for “diverse groups of students and their unique needs in every venue of the institution”¹³ while simultaneously fulfilling our professional responsibilities as institutional agents charged with implementing state law and campus policy. The passage of HB2 required North Carolina student affairs educators to interpret and integrate personal values, professional competencies (e.g., the *Professional Competency Areas for Student Affairs Educators* published by the American College Personnel Association [ACPA] and the National Association of Student Personnel Administrators [NASPA]), ethical standards, and public policy. The capacity

to ethically and productively navigate tensions that arise from the adoption of federal, state, and/or institutional policy counter to one's personal values and political ideologies is an essential student affairs professional competency,¹⁴ one that both new and seasoned student affairs educators are called upon to demonstrate with increasing frequency. Rather than waiting for public policy challenges such as HB2 to arise before developing an advocacy plan, I encourage student affairs educators to adopt a proactive stance, building productive campus partnerships and engaging in ongoing collection of relevant student data so they can effectively attend to students' needs in politically charged campus environments.

Build Campus Partnerships

A valuable legislative action and public policy resource on my campus is the director of strategic initiatives. This position serves as the primary liaison with federal and state elected and appointed officials and keeps the institution well-informed on developments in governmental affairs via the *Government Relations* website and an active and engaged Twitter account. The director of strategic initiatives also provides the institution guidance when proposed legislation and policies hold potential harmful consequences for members of our community. When HB2 passed, the director of strategic initiatives consulted with university counsel and informed our chancellor of the scope of the legislation's influence on campus. Our chancellor then issued a community-wide e-mail to update the campus on the status of the legislation as well as affirm the institution's commitment to equal opportunity and nondiscriminatory policies. In the case of campuses without a dedicated governmental affairs position, student affairs educators should identify the individual (or individuals) within the president or chancellor's council who engages in government relations work and seek their guidance on the possibility of setting up a website with up-to-date information on policies and legislation affecting higher education. Student affairs professionals might also advocate for the government relations liaison to attend a department or division meeting to update staff on the political climate in the state and how pending legislation could affect the student experience and professional responsibilities. Proactively building relationships with institutional government affairs staff and facilitating department/division public policy conversations will increase staff capacity to effectively respond when confronted with legislative mandates like HB2.

Collect Relevant Data

Student demographic data serves as another valuable resource for student affairs educators to leverage when seeking to navigate tensions between

legislative actions and campus policy. Demographic information about students is critical to making sure their needs are met and issues are addressed. However, for some institutions, the collection of student demographic data may not be as complete as one would like or hope. Having incomplete student demographic information creates an environment where resources may not be properly allocated to serve student needs. As Shane Windmeyer stated:

Colleges and universities are responsible for the education and safety of all students, including their LGBT students. A school cannot provide necessary services or maintain proper safety and campus climate without first knowing who are the out-LGBT students attending their school. Demographic questions asking students about their sexual orientation and gender identity give university administrators the data they need to properly implement LGBT-inclusive policies and practices.¹⁵

Returning to the HB2 example, when confronted with the challenge of implementing the discriminatory legislation, a more concerted effort to communicate with students identifying as transgender could have been made by student affairs professionals if they had proactively developed a practice of collecting specific demographic information on the student body. The ability to quickly identify trans-identified students on campus would have allowed student affairs educators to adopt a more personal approach with respect to helping students feel safe and supported on campus. Without these data, student affairs educators on my campus relied primarily on smaller, personal networks and connections with transgender students as well as broader messages sent to the campus community by the chancellor to convey institutional support for students facing discrimination under HB2.

Student demographic information is typically collected via the admissions application, whether it is an institution-specific document or a multicampus application such as the Common Application or the Universal College Application. A concern for student affairs educators is that their institution may not accurately capture all aspects of a student's identity in the college application process, including information about sexual orientation or gender identity and expression. Fortunately, the Common Application and the Universal College Application now allow questions about gender identity and expression to be included within the core set of questions;¹⁶ however, for institutions who do not use these admission forms or do not ask about these student demographics, there exists a critical information gap. Without access to this data, it is difficult for student affairs educators to identify students who might be affected by harmful legislation or institutional policies. This

was certainly the case for many institutions in North Carolina when HB2 passed, as information about student sexual orientation and gender identity or expression was not readily available in a report from the institution's mainframe database. Specific data on students who identified as transgender would have allowed student affairs educators the opportunity to provide a more personalized form of outreach with respect to supporting students as they navigated the campus environment post-HB2. If employed at a campus that does not collect student demographic information related to diverse dimensions of identity, I urge student affairs professionals to advocate for the collection of this missing information. Data speak volumes—especially in an age of metrics, assessments, and evaluations.

Conclusion

Parnell and Dunlap state that “it is reasonable to assume that no student affairs educator may ever agree with every state or federal policy that impacts the lives of students” but when contested issues arise, an opportunity presents itself for “student affairs educators to influence the development of thoughtful and respectful campus policies and procedures.”¹⁷ I wholeheartedly agree with this assertion. It is our purpose and obligation to ensure that we have the resources we need to work with and meet the needs of students in our care. And while there may be instances where legislative and/or institutional policies arise that challenge us in our work, it is our underlying commitment to the welfare and development of our students that will sustain us in our roles as student affairs educators.

Discussion Questions

1. How can your institution best gather data on marginalized student populations to better understand and advocate for the needs of these students?
2. What resources are available at your institution to help you keep abreast of state and governmental policies and laws affecting higher education? By what other means could you supplement these resources to be better aware of policies and laws that potentially could affect your students?

Notes

1. Young, R. B., & Elfrink, V. L. (1991). Essential values of student affairs work. *Journal of College Student Development*, 32(1), 45–55.
2. Roberts, D. C. (1993). Community: The value of social synergy. In R. B. Young (Ed.), *Identifying and implementing the essential values of the profession*

(New Directions for Student Services, no. 61, pp. 35–45). San Francisco, CA: Jossey-Bass; Young, R. B. (1993). Essential values of the profession. In R. B. Young (Ed.), *Identifying and implementing the essential values of the profession* (New Directions for Student Services, no. 61, pp. 5–14). San Francisco, CA: Jossey-Bass.

3. American Immigration Council. (2017, September 6). The Dream Act, DACA, and other policies designed to protect dreamers. Retrieved from <https://www.americanimmigrationcouncil.org/research/dream-act-daca-and-other-policies-designed-protect-dreamers>; U.S. Citizenship and Immigration Services. (2017, October 6). Consideration of Deferred Action for Childhood Arrivals (DACA). Retrieved from <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>; Valverde, M. (2018, January 22). Timeline: DACA, the Trump administration and a government shutdown. *Politifact*. Retrieved from <http://www.politifact.com/truth-o-meter/article/2018/jan/22/timeline-daca-trump-administration-and-government/>

4. Exec. Order No. 13769, 3 C.F.R. 8977-8982 (2017).

5. Ewing, M. (2017, April 5). Campus carry: The movement to allow guns on college grounds, explained. *The Trace*. Retrieved from <https://www.thetrace.org/2017/04/campus-carry-movement-to-allow-guns-on-college-grounds-explained/>

6. Human Rights Campaign, www.hrc.org

7. General Assembly of North Carolina, Second Extra Session 2016, Session Law 2016-3, House Bill 2. (2016, March 23). Retrieved from <http://www.ncleg.net/Sessions/2015E2/Bills/House/PDF/H2v4.pdf>

8. Tan, A. (2016, March 24). North Carolina's controversial anti-LGBT bill explained. *ABC News*. Retrieved from <http://abcnews.go.com/US/north-carolinas-controversial-anti-lgbt-bill-explained/story?id=37898153>; Yang, J. (2016, March 24). How North Carolina signed a bill dubbed the most anti-LGBT law in the U.S. *PBS News Hour*. Retrieved from <https://www.pbs.org/newshour/show/how-north-carolina-signed-a-bill-dubbed-most-anti-lgbt-law-in-the-u-s>

9. General Assembly of North Carolina, Second Extra Session 2016, Session Law 2016-3, House Bill 2. (2016, March 23). Retrieved from <http://www.ncleg.net/Sessions/2015E2/Bills/House/PDF/H2v4.pdf>; Lloyd, H. (2016, May 13). McCrory's House Bill 2: A brief outline of its five "parts." *Huffington Post*. Retrieved from https://www.huffingtonpost.com/harold-lloyd/mccrorys-house-bill-2-a-b_b_9966020.html

10. Lloyd, McCrory's House Bill 2.

11. Newsom, J. (2016, April 8). UNC system president: HB2 "hastily drawn." *Greensboro News & Record*. Retrieved from http://www.greensboro.com/news/schools/unc-system-president-hb-hastily-drawn/article_2154e351-6a96-50d5-843f-fbf8e0e03a80.html

12. Newsom, J. (2016, April 8). The syllabus: The UNC system and HB2 (updated). *Greensboro News & Record*. Retrieved from http://www.greensboro.com/blogs/the_syllabus/the-syllabus-the-unc-system-and-hb-updated/article_903d2069-a3d5-5504-b66b-2c6b131a69b3.html

13. Komives, S. R. (2015). Shaping the future: Lessons from the past. *About Campus*, 20(1), 4–12, p. 9.
14. ACPA & NASPA. (2015). *Professional competency areas for student affairs educators*. Washington DC: Author.
15. Windmeyer, S. L. (2012, March 19). To ask or not to ask: LGBT identity on college admission forms. *The Huffington Post*. Retrieved from https://www.huffingtonpost.com/shane-l-windmeyer/college-admission-forms-sexual-orientation_b_1346593.html
16. Schubert, A. (2016, May 9). Common Application, Universal College Application add gender identity question. *USA Today College*. Retrieved from <http://college.usatoday.com/2016/05/09/common-app-universal-college-app-add-gender-identity/>
17. Parnell, A., & Dunlap, J., this volume, pp. 270, 271.