Appalachian
STATE UNIVERSITY®
BOONE, NORTH CAROLINA

Conduct Systems Designed To Promote Moral Learning

By: James Lancaster

Abstract

Historically, those responsible for administration of student conduct resolution in U.S. higher education have sought some manner of moral development for students, whether labeled as such or not. It is clear that contemporary conduct officers are more deeply concerned with such student development as an extension of their practice. Many such professionals may frame the question as "What am I trying to accomplish with this student, and why?" In this chapter, I explore the history of student conduct systems; discuss the evolution of learning, development, and conduct; and consider the conduct professional as moral mentor.

Conduct Systems Designed to Promote Moral Learning

By: James M. Lancaster

History of Student Conduct Systems

Rudolph (1991), in his classic history of American higher education, noted that early colonial colleges were religiously affiliated, offering concern for morality focused through the lens of a traditional, narrow religious belief system. As the influence of religious affiliation diminished and more secular institutions emerged, the president of the institution, or sometimes faculty and, still later, the individual who would come to be known as the dean usually were charged with managing student behavior and conduct and shaping that conduct around some version of the moral values of their society.

Even when not expressly stated, student conduct and moral development as a part of learning were implied and entwined themes throughout early higher education in this country. From the early twentieth century until the 1960s, the Supreme Court decision in Gott v. Berea (1913) defined the view that "college authorities stood in loco parentis concerning the physical and moral welfare and mental training of the pupils" (Kaplin and Lee, 1997, p. 6). Although this decision had the unfortunate effect of defining college students as minor children, it had the salutary aspect of embedding the concept of moral training in college, albeit from a parental perspective.

In a more substantive statement addressing the role of moral development specifically within the emerging student affairs profession, the Student Personnel Point of View (discussed in Chapter One) provided one of the earliest and clearest statements of the administrator's historic

and continuing concern with moral development of college students: "This philosophy imposes upon educational institutions the obligation to consider the student as a whole—his intellectual capacity and achievement, his emotional make up, his physical condition, his social relationships, his vocational aptitudes and skills, his moral and religious values" (American Council on Education, 1937, p. 3). This concern was echoed in the 1949 edition of this document as well.

As student development and moral education continued to evolve, the 1961 case of Dixon v. Alabama produced a decision changing higher education law and the practice of conduct administrators. While litigated under Fourteenth Amendment constitutional issues, the case modeled essential moral and ethical development dilemmas for students and universities. Arising from the 1960s activist culture in which students in Alabama and elsewhere found themselves, the Dixon case initiated case law that marked a change in the relationship between students and their educational institutions, signaling the end of in loco parentis. Dixon heralded a turn toward due process in conduct proceedings and, while not clearly required by this or subsequent cases, the beginnings of a more structured and legalistic practice of student conduct. Yet a close reading of the Dixon case finds ethical and moral concepts, such as fair or fairness, scattered throughout the decision.

The presenting issues in Dixon were about moral and ethical decision making. The actions of the student defendants charged in the Dixon case were clearly those of moral principle even if viewed through the lens of political–legal–social opportunity issues that also drove the case. The students' response to segregation suggested moral sensitivity, judgment, motivation, and actions, all elements of what, in hindsight, we can see Rest (1986) subsequently describing as the four components of moral development.

The recognition of student rights in Dixon empowered students to think about the consequences and implications of their actions in a manner that reflected ethical questions. Administrators, in turn, had cause to reflect on how their institutions would react to a student body that could no longer be dismissed as children. Could rule making and enforcement coexist with educational goals based in holistic and moral development? Did students experience learning in activities and institutional processes beyond the formal classroom? The exploration and resolution of these issues informed textbooks, teaching, and practice concerns in student conduct practices that persist to the present.

Learning, Development, and Conduct

Theories of moral development, based in part on the works of Kohlberg, Gilligan, Rest, and others, had appeared in the late 1950s and early 1960s. In particular, James Rest's Theory of Moral Development (1986) began to influence the conversation about approaches to contemporary conduct processes. Responding to theorists as well as the evolving debates about how students learn, the leading student development professional associations, the American College Personnel Association (ACPA) and the National Association of Student Personnel Administrators (NASPA), provided forums and position papers in which the place of moral development was a continuing theme. In 1996, ACPA issued a document titled Principles of Good

Practice for Student Affairs and later joined NASPA in commissioning Professional Competency Areas for Student Affairs Practitioners (2010). Both documents emphasized the important role that student affairs professionals played in pursuing learning outcomes that assist students in the development of values, ethical standards, and ethical decision-making practices— all factors in creating an environment of moral community and development for college students. Conduct administrators from every era of education have come to agree that such complex issues involving moral and ethical dilemmas, rather than simple questions of right and wrong, have been at the heart of many of their most serious conduct cases. In recent years, student conduct professionals and researchers have advocated a role for conduct administration in facilitating the development of appropriate moral sensibilities in their work with students (Taylor and Varner, 2009).

The Association for Student Judicial Affairs (ASJA), a new professional association for conduct officers founded in 1986, implied in its name a bias for "judicial affairs." But early ASJA documents stated, "The membership of ASJA believes that a primary purpose for the enforcement of such standards is to maintain and strengthen the ethical climate and to promote the academic integrity of our institutions" (1964).The name of the organization was eventually changed to the Association for Student Conduct Resolution, intended to better reflect the growing awareness of and emphasis on conduct resolution, in all of its forms, rather than the suggestive legalistic approach of "Student Judicial Affairs" (Association for Student Conduct Administration, 2011). A review of annual conference proceedings from 1996 to the present reflects this growing interest and orientation toward programs answering ethical and moral development concerns among members (Association for Student Conduct Administration, 1996–2010).

Student Conduct Outcomes as Moral Learning

By the early 1990s, questions of philosophy, learning, and their place in the practice of student conduct created a dialogue about the necessity for more intentional consideration of ethical and moral development in the conduct process. David Hoekema, in 1994's Campus Rules and Moral Community, concluded that "[m]orality on campus . . . is formed and shaped in dialogue. . . . We are moral beings because we are beings who live in community and who shape our ideals in dialogue" (p. 164). Writing in 1997, Dannells suggested that the process of conduct should be based on a clear recognition and conveyance of institutional–community values. Citing Chickering and Reisser's 1993 work in Education and Identity, Dannells also affirmed the role that conduct systems could play in facilitating moral learning and development.

Strike and Moss (1997) expressed the need for new ways of approaching decision making and, by extension, student conduct, describing the essential nature of a campus "as a kind of moral community" (p. 2). Cooper and Lancaster (1998) presented a succession of articles on this theme and concluded that institutions, rather than only seeking risk reduction and policy explication, must define their moral and ethical expectations for student conduct processes.

Bickel and Lake (1999) called the old model of university relations with students (including conduct processes) legalistic, proposing instead that administrators act as facilitators or as "a

guide who provides as much support, information, interaction, and control as is reasonably necessary and appropriate in the situation" (p. 193). Although not speaking specifically of student conduct or of moral development per se, the authors could certainly be perceived as developmental.

Lancaster (2003) offered a summative argument for reflective practices emphasizing an "intentional practice," synthesizing ethical and legal concerns into a holistic focus on student conduct resolution. Editors of the 2008 edition of The Complete Guide to Student Conduct Practice encouraged a holistic philosophy of practice in student conduct, answering the structural, legal needs of the practice while recognizing and encouraging the "reasoned, thoughtful, and developmental" aspects of practice (Lancaster and Waryold, p. 293).

The result of this dialogue is a contemporary professional practice of student conduct that reflects a variety of procedural options. Schrage and Thompson (2009) described these options as a "spectrum" of practice wherein a thoughtful conduct professional demonstrates the "ethic of justice and care" in the choice of a resolution procedure appropriate to the legal and ethical needs of the participants while also attending to students' holistic development. These processes, ranging from very informal to highly structured formal procedures, included the options of dialogue, conflict coaching, facilitated dialogue, mediation, restorative practices (including restorative justice), shuttle diplomacy, informal adjudication, and formal adjudication through hearings.

In this space it is impractical to fully discuss the details of each of these approaches. But the editors' and author's intent is clear: They seek to unite the various forms of conduct resolution that have emerged over the last few years into a common spectrum of options. From this approach, the average conduct professional may gain a clearer insight about available options and thus examine more deeply the particular needs of each student situation related to conduct as well as likely developmental and moral learning outcomes. It is significant that dialogue is a stated component in many of these options. Dialogue provides an opportunity for ethical inquiry with students concerning the intent and actual meaning of the actions that led to their present involvement with a conduct office.

In theory, a broad array of options for resolution of conduct issues, especially as they encourage dialogue, offers powerful tools for those who seek to be moral mentors. Wise and thoughtful choices among such options can suggest to students the professional's commitment to the welfare of the participants; it may also offer an opportunity for students to see the potential to resolve differences in a humane and developmentally appropriate manner, perhaps different from the less thoughtful choices that resulted in the need for conduct proceedings. Successful mastery of such a broad and complex array of resolution options requires a professional who is knowledgeable of the options, responsive to the needs of each student, and experienced in conduct practices. A professional practice of this subtlety demonstrates a commitment on the part of the professional that is the consummate moral response to the challenges of student learning in conduct settings.

Himbeault and Varner (2009) affirm the power of these alternative forms of dispute resolution.

They contend that "what is lacking in [the historical] risk-reduction model is [this] conscious decision to support individual growth in the areas of moral and ethical decision making, social identity development, cultural competency, and other components of psychosocial development theory" (p. 23).

The Conduct Professional as Moral Mentor

A common thread of concern for moral development has now been woven into of the tapestry of conduct resolution options. The choices in processes available to professional conduct officers allow them great freedom in choosing how to move students to renewed sensitivity about ethics, judgment, and the moral basis of their actions. This set of outcomes can be viewed as one desirable definition of success in contemporary student conduct resolution. But even the most impressive array of tools from which to choose does not alone define a successful professional or ensure moral mentoring. Relationships, and the quality of those relationships, between conduct officers and students also matter deeply. Experienced conduct officers affirm this whenever they gather for discussions at conferences. How one models moral mentoring is potentially as critical to professional success as any array of process tools.

Recent research by Stimpson and Janosik (2011) documents the impact of this relationship in conduct settings. In a broad survey of approximately 4,000 students at twenty-three different institutions, they found that student learning in conduct processes is directly and strongly correlated with the student perception that the process was a fair one. The perception of fairness can exist only when the professional relationship with the student ensures it.

Fairness, as suggested by Kitchener (1985), is a derivative of the core ethical principles of being just and being faithful, something that has been cited as central to human relationships. It is reasonable to suggest that building a relationship that explores the moral concerns of conduct rather than a simple recitation of rules and regulations and findings of right and wrong conveys such qualities much more successfully. There is broad consensus about the value of educational and moral development and the importance of building relationships that model as well as prescribe right or, we might suggest, moral behavior. Experienced conduct officers today would likely agree that a positive relationship with student conduct participants, modeling ethical principles and moral conduct, has always been important in creating a perception that such behavior is not only desirable and preferable but also offers student conduct participants a pathway to success in their campus community and in their subsequent lives.

In such relationships, the authenticity of the moral mentor, or what Palmer (2004) terms the wholeness of a life that affirms rather than denies one's selfhood, is critical. As moral mentors, we must be who we say we are. For example, we cannot suggest moderation in consumption of alcohol to a student accused of alcohol abuse and then model such excess and misbehavior in our own lives. Such an approach is not only lacking in authenticity; it is corrosive to the very idea of moral mentoring. The student's perception of duplicity in the behavior of this professional not only damages the mentoring relationship; it calls into question the entire notion of moral models. We therefore undertake moral mentoring with regard for our own actions and intents as well as

with due respect for the fragility of the relationship we seek to nurture.

How, then, might a newly appointed student conduct officer approach the creation and implementation of a conduct system designed to promote moral learning?

James Rest's Four Component Model (1986) offers a framework for guidance.

Moral Sensitivity. Conduct processes are based on the institutional code of conduct in which the philosophy of moral development must be clearly defined in all resolution options. If members of a university community who participate in and for whom conduct professionals facilitate meaning perceive this exercise of moral development options, they will become powerful allies in this process. By providing this foundation, first through training and then by accurately modeling these concepts throughout all resolution processes, the conduct professional demonstrates moral sensitivity in philosophy and in practice.

But, in acknowledging that one type of resolution process does not fit all situations, the professional must be well informed about the many resolution possibilities, adept in their employment, equipped to assess both moral and developmental learning outcomes in their practice, and prepared to alter processes as the situation demands. To take our earlier example of a student abusing alcohol, certainly a common misconduct on college campuses, moral sensitivity by the conduct officer might reflect the acknowledgment that every such case is different and that, in some cases, very different processes and outcomes might be necessary and appropriate to create learning outcomes useful to the student and appropriate to the concerns of a campus community's restorative and social justice concerns.

Moral Judgment. Selection of the appropriate process, or course of action for the conduct case, must balance institutional and student interests in an ethically correct manner, rejecting distracting or merely expedient lines of thinking in favor of those based on moral principles. Exercising moral judgment requires the professional to constantly assess this balance, giving close attention to the specifics of the situation as well as the fairest manner for resolution while acknowledging any inherent shadows or biases he or she may possess. Student participants, through appropriate facilitation with a professional, perceive the reason for the choice of particular forms of resolution as well as their meaning and will benefit directly from this aspect of moral mentoring. Continuing the alcohol abuse scenario, a conduct officer whose childhood was dominated by an alcoholic parent is called on to acknowledge this bias, work hard against it in choosing and assessing resolution options, and, in some situations, perhaps recusing him-or herself from the case.

Moral Motivation. Once the resolution possibilities are reviewed and the appropriate process selected, the professional commits to the chosen course of action, keeping in mind the moral values inherent in this resolution choice while acknowledging other conflicting values or concerns. Stu- dents involved in these choices within the framework of the conduct process begin to understand the moral component of the professional's work. The display of this moral motivation is the beginning of the persistence necessary for a successful resolution of the conflict, reflecting sensitivity, awareness, and judgment as well as motivation. Both the professional and the student participants will gain insight into the moral underpinnings of the process and the commitment of

the professional to moral development.

The student accused of abusing alcohol might activate the professional's deeply held religious or personal belief that drinking is "wrong." Yet when the accused student is properly assigned to a full conduct board hearing, the most stringent of processes, it is not because the conduct officer is motivated to punish the student harshly but because the officer recognizes that the hearing procedure offers the broadest opportunity for the student to fairly be heard and understood by an impartial and representative panel.

Moral Action. Perhaps the most difficult step in conduct resolution can be the moment of decision in the case. At this stage, it is critical that the professional demonstrate the courage to act with integrity, acknowledging what has already been determined as the appropriate process and conscious of the principles and moral values involved in the decision. This demonstration of moral action is often most difficult specifically because it involves a final commitment to moral rather than emotional, political, or other competing concerns. It may also be an inherently risky stage for the professional as it may compete directly with concerns of other affected students as well as various stakeholders, including supervisors, families, or other community members. All participants, and especially those who are termed victims in the process, must have clarity about what the process is designed to accomplish and, as important, what the process may not provide.

Moral action can provide a powerful voice for victims, but such outcomes often can be perceived only in the longer term, thus providing little immediate satisfaction. Even when not immediately accepted by all stakeholders, conduct resolution that intentionally seeks moral development and learning, when properly conceived, provides the foundation for extended moral learning for all participants. The alcohol-abusing student is found "responsible," and the penalty recommended is suspension. The conduct officer as a student experienced mercy in a similar situation and is loath to treat the student more harshly than he himself was treated. Yet a course of moral action trusts in the integrity of the panel's judgment, acknowledges the fairness of a sanction well within prescribed boundaries, and affirms the recommendation despite personal feelings.

Institutional Support

Student conduct professionals do not exercise their responsibilities in isolation of a theoretical model. There are many constituents necessarily considered and involved in the construction of a moral development conduct process. Support of the institutional community is also vital to success. Sanctions must reflect the intended learning outcomes of the process. Administrative superiors have an important role to play in supporting the development and application of the philosophy and moral development aspects that will be included in the conduct code as the foundation for the professional's work.

A professional practice based in moral learning and development that has meaning for the

student(s) and institution, consistently seeks to reflect these attributes in all parts of the process, and is clarified constantly through meaning-making activities for students facilitated by the conduct professional as well as more formal assessment activities. The practice of the conduct moral mentor begins with the commitment to a wide array of conduct process possibilities and extends through the initial resolution process for each case and beyond. Frequently, meaning making in the moral development process evolves over time as individuals come to reflect on and understand the deeper aspects of their experiences.

The perception of fairness serves as the basis for a relationship between professional and student from which future learning can emerge. Employing a theoretical model of moral development can activate submerged moral values of the participants. The combination of a distinctive environment conducive to the conveyance of these values and the creation of expectations, appropriate processes, and procedures (with time allocated for necessary reflection and meaning making), successful and consistent moral learning outcomes may be achieved. In all of this, the commitment to moral action and learning as a philosophy must be clearly conveyed by the professional's actions and in a manner accessible to and appropriate for students' developmental level. The professional must highlight and reinforce moments in which the student demonstrates any level of response to the moral concerns inherent in this practice.

Final Thoughts for Practice. The resolution of student conduct today is pursued through a variety of processes, each of which can reflect moral mentoring intentions. Although there are clear legal boundaries and directives as well as institutional policies that the professional must consider, all of the available processes discussed in this chapter may meet these requirements while functioning within a philosophy of moral mentoring. No single process can be said innately to stand alone on the moral high ground; each has value in certain situations. There are no guarantees of success in the efforts of a conduct moral mentor. But it is important to acknowledge that any process will be less successful and potentially harmful without a skilled professional who, acknowledging all of the contextual requirements of conduct resolution, intentionally attempts the facilitation of moral learning outcomes. The conduct professional's actions in every process are a singular and vital element in delivering on the promise of moral mentoring. The emotional intelligence, informed intuition, and moral clarity of the conduct professional, in addition to the areas of practical knowledge and process, are critical to a desired outcome of moral development for the student. The careful cultivation, selection, and pursuit of a moral development intent and philosophy in conduct processes by a student conduct professional will result not only in resolution of the events at hand; it also will provide opportunities for moral growth and development for the student and the community.

References

American Council on Education. "The Student Personnel Point of View," 1937, 1 (3). American Council of Education Studies. Retrieved December 10, 2011, from http://www.myacpa.org/pub/documents/1937.pdf.

American College Personnel Association. Principles of Good Practice For Student Affairs,

1996. Retrieved December 10, 2011, from http://acpa.nche.edu/pgp/principle. htm.

American College Personnel Association and the National Association of Student Personnel Administrators. Professional Competency Areas for Student Affairs Practitioners, 2010. Retrieved December 2, 2011, from http://www.naspa.org/programs/profdev/ default.cfm.

Association for Student Conduct Administration, "History of ASCA," 2010. Retrieved August 2, 2011, from http://www.theasca.org/history/.

Association for Student Conduct Administration, Conference Proceedings. College Station, Texas: Association for Student Conduct Administration], 1996–2010.

Association for Student Judicial Affairs. Statement of Ethical Principles and Standards of Conduct. College Station, Texas: Association for Student Judicial Affairs, 1964.

Association for Student Judicial Affairs. "Ethical Principles and Standards of Conduct," 1993. Retrieved August 2, 2011, from http://www.theasca.org/ethicalprinciples/.

Bickel, R. D., and Lake, P. F. The Rights and Responsibilities of the Modern University: Who Assumes the Risks of College Life. Durham, N.C.: Carolina Academic Press, 1999.

Chickering, A., and Reisser, L. Education and Identity, 2nd ed. San Francisco: Jossey-Bass, 1993.

Cooper, D., and Lancaster, J. (eds.). Beyond Law and Policy: Reaffirming The Role of Student Affairs. New Directions for Student Services, no. 82. San Francisco: Jossey-Bass, 1998.

Dannells, M. From Discipline to Development: Rethinking Student Conduct in Higher Education. ASHE-ERIC Higher Education Report 25, No. 2. Washington, D.C.: George Washington University Graduate School of Education and Human Development, 1997.

Dixon v. Alabama, 294 F. 2d 150 (5th Cir. 1961).

Gott v. Berea College, et al., 156 Ky. 376; 161 S.W. 204; 1913 Ky. LEXIS 441 (1913)

Himbeault, S. T., and Varner, D. T. "When Student Learning and Law Merge to Create Educational Student Conflict Resolution and Effective Conduct Management Programs." In. J. M. Schrage and N. G. Giacomini, Reframing Campus Conflict: Student Conduct Practice Through a Social Justice Lens. Sterling, VA: Stylus Publishing, 2009.

Hoekema, D. Campus Rules and Moral Community: In Place of In Loco Parentis. Lanham, Md.: Rowman & Littlefield, 1994.

Kaplin, W., and Lee, B. A Legal Guide for Student Affairs Professionals. San Francisco: Jossey-Bass, 1997.

Kitchener, K. "Ethical Principles and Ethical Decisions in Student Affairs." In H. J. Cannon and R. D. Brown (eds.), Applied Ethics in Student Services. New Directions for Student Services, no. 30. San Francisco: Jossey-Bass, 1985.

Lancaster, J. (ed.) Exercising Power with Wisdom: Bridging Legal and Ethical Practice with Intention. Asheville, N.C.: College Administration Publications, 2003.

Lancaster, J., and Waryold, D. (eds.). Student Conduct Practice: The Complete Guide for Student Affairs Professionals. Sterling, Va.: Stylus, 2008.

Palmer, P. A Hidden Wholeness: The Journey Toward an Undivided Life. San Francisco: Jossey-Bass, 2004.

Rest, J. Moral Development: Advances in Research and Theory. Westport, Conn.: Praeger, 1986.

Rudolph, F. The American College and University: A History. Athens: University of Georgia Press, 1991.

Schrage, J., and Thompson, M. "Providing a Spectrum of Resolution Options." In J. Schrage and N. Geist Giacomini (eds.), Reframing Campus Conflict: Student Conduct Practice Through a Social Justice Lens. Sterling, Va.: Stylus, 2009.

Stimpson, M. T., and Janosik, S. M. "The Conduct System and Its Influence on Student Learning." Manuscript, 2011.

Strike, K., and Moss, P. Ethics and College Student Life. Needham Heights, Mass.: Allyn & Bacon, 1997.

Taylor, S. H., and Varner, D. T. "When Student Learning and Law Merge to Create Educational Student Conflict Resolution and Effective Conduct Management Programs." In J. Schrage and N. Geist Giacomini (eds.), Reframing Campus Conflict: Student Conduct Practice Through a Social Justice Lens. Sterling, Va.: Stylus, 2009.

JAMES M. LANCASTER is a professor of human development and psychological counseling at Appalachian State University.