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Do Professors Need Professional Ethics as Much as Doctors and Lawyers?

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University of Colorado

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Center for the Study of Ethics in Society



DO PROFESSORS NEED PROFESSIONAL ETHICS AS MUCH AS DOCTORS AND LAWYERS?

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**DO PROFESSORS NEED
PROFESSIONAL ETHICS AS MUCH
AS DOCTORS AND LAWYERS ?**

**James W. Nickel
University of Colorado**

University faculty have not given much attention to ethical issues in teaching and research. There is a large literature on academic freedom, but little on academic responsibilities.¹ No journals are devoted to ethical issues in academic life, and no one teaches courses to graduate students aspiring to academic careers about their responsibilities as teachers and researchers. In contrast, medical ethics is an established area of moral and political inquiry. There is a large literature on medical ethics, with a number of journals dedicated to it. Many medical schools have increased their offerings in medical ethics, and many hospitals now have "ethics committees." The situation in law is similar. The ABA has codes of ethics for lawyers and judges.² Law schools are required to offer courses in legal ethics. And a substantial literature exists on the ethical dimensions of lawyering.

It is tempting to view the relative neglect of ethical issues in university teaching and research as stemming from the professional arrogance and hypocrisy of university professors.³ Arrogance might be seen in the implicit assumption that the ethical standards of university faculty are sufficiently good that they call for no special attention.

Hypocrisy might be seen in the willingness of professors--particularly philosophy professors--to write about legal and medical ethics while neglecting academic ethics. But this is only one possible explanation of why academic ethics has not received the same attention that legal and medical ethics have. In the first part of this paper I consider a number of possible explanations for this neglect. As part of this I will raise the question of whether academic ethics deserves more attention. My conclusions will be that the lack of attention by academics to ethical issues in their professions is not as self-serving as it initially seems, but that academic ethics is an area where intellectual and cultural development is needed. The second part of this paper offers a framework for understanding and developing academic ethics

II

WHAT EXPLAINS THE RELATIVE NEGLECT OF ACADEMIC ETHICS?

There are a number of possible explanations of why academic ethics has not received as much attention as medical and legal ethics. In this section I present and

evaluate these explanations. It is possible, of course, that two or more of them working in tandem provide the best explanation.

A. *Faculty are self-serving in ignoring ethical question in their own profession.* This explanation, which I referred to in the introduction, holds that the neglect of academic ethics by university faculty is best explained as a matter of serving their own interests in a hypocritical way. When a similar lack of attention to ethical issues existed in medicine and law, many academics were quick to attribute this to the professional arrogance and hypocrisy of doctors and lawyers. Perhaps this was a matter of seeing slivers in the eyes of doctors and lawyers while being blind to the logs in their own eyes. President Diether Haenicke of Western Michigan University recently expressed this view:

It has, in my observation, been a long-standing practice of the academic professoriate to lecture others, but to refrain from lecturing its own constituency. I have not yet seen any of our colleagues lecture about ethics in academia. If there is a need for a reconsideration of ethical questions in the professions, why spare our own?³

No doubt there is some truth in viewing professors as hypocritical on issues of faculty ethics, but some of the ways in which it is an oversimplification will emerge as other possible explanations are considered.

B. Academics have not experienced a crisis in public confidence. The Watergate scandals caused a considerable amount of public concern about the ethics of lawyers, since President Nixon and several of those involved in the scandals were lawyers. Skyrocketing medical costs, and a consumer rebellion against imperious physicians, stimulated public concern about the policies and ethical standards appropriate to medical care. Public concern directed to academics and their appropriate roles has never been this strong. There has been no similar crisis in public confidence concerning the ways in which university faculty go about their work.

C. There has been less technological change in the university than in medicine. In the last fifty years, medicine has been substantially transformed by technological advances. New methods of dealing with health problems--from heart transplants to in



vitro fertilization--have raised difficult issues about whether these methods are morally permissible, whether they are affordable, and how they should be distributed. It has been recognized that these issues should be addressed not only by doctors but also by intellectuals and by the public, with the result that many professors have written and taught about them.

Technological change has not affected lawyers and professors to a similar degree. Universities have enlarged and changed in many ways during the last fifty years, but this change has generally not been driven by technological advances. The area where this is most true is in teaching. Things like adding more seats to the room or substituting an overhead projector for a blackboard haven't transformed the nature of teaching. Research, on the other hand, has been substantially changed by sophisticated technology. The equipment used in experiments has become immensely more complicated in many areas, with the result that researchers must devote a lot of time and energy finding funds for their research. And almost all researchers have come to rely on computers for gathering and processing data and for writing up their results. But this change in university research



has not raised as many moral and political issues as technology-driven change in medicine.

D. The consequences of academic malpractice are less grave than those of legal or medical malpractice. To overstate things a little, when doctors are incompetent or behave badly their patients die, and when lawyers are incompetent or behave badly their clients go to jail or lose their cases. But when professors are incompetent or behave badly their students merely are taught less well than they might have been, or knowledge is not advanced as much as it might have been. Because of this difference in the consequences of misconduct, it has seemed less imperative to focus concern on the ethical problems of academics. There is also an exception to this that proves the rule. In areas where there are clear victims of academic malpractice, namely human and animal research subjects that are abused, regulations have been developed.

E. The temptations of professors aren't as large or enticing as those of doctors and lawyers. If a doctor does three or four unnecessary surgeries a month, the return from these operations in the course of a year might be an extra \$100,000. And if a lawyer can save a shady but profitable enterprise

from prosecution or conviction, the rewards may be enormous. Professors, on the other hand, mostly work in an environment in which there are only small temptations present, things like going to a conference in New York because one wants to enjoy a weekend in the Big Apple, or getting even with an insolent student by giving her an undeservedly low grade. These temptations, along with other ones such as taking shortcuts in grading, not keeping up with one's subject, or going skiing when one should be doing research, are not to be belittled, but as instances of human vice and folly they are not extremely grave.⁴

All of these explanations are at least partly persuasive. Probably each of them has a part to play in a complete explanation of why academic ethics has received less attention than medical and legal ethics. The claim that professional ethics is more important for doctors and lawyers than for professors has some truth in it. If this is correct, then the lack of attention to academic ethics may be less self-serving and hypocritical than it initially seemed.

It does not follow from this, however, that the subject of faculty ethics does not deserve more attention that it has received. To show that A is more

important than B is not to show that B is unimportant. And we should not misconstrue the last two explanations to conclude that the moral universe of the teacher-researcher is morally trivial.

More attention to ethical issues in teaching and research is indeed needed. If abuses by faculty members are not generally so serious as to count as felonies or so dangerous as to do severe harm to others, perhaps this means that a code of academic ethics need not be an imitation of the criminal law. Perhaps in formulating an academic ethic, we can give a bigger role to aspirations or goals and a smaller one to prohibitions and punishments.

III

A FRAMEWORK FOR UNDERSTANDING ACADEMIC ETHICS

In this section I introduce a number of distinctions pertaining to the nature and role of a code of professional ethics. These distinctions will be used in the following section to present a general description of a plausible code of academic ethics.

A. *Ethics and codes of ethics* It is important to avoid confusing the ethics of a profession with its written ethical code. The relation between knowing how to speak a language and having a written grammar for that language is probably a good analogy. Just as good speakers commonly have no adequate written formulation of their competency, ethically admirable professionals may have no adequate formulation of the standards they live by. Patterns of ethical behavior are often taught by example rather than by elaborate precepts. The operation of standards of behavior may not be apparent to those doing the behaving, just as the rules of grammar that describe an excellent speaker's competency may not be known to the speaker.

The idea of a written code of conduct for a profession, however, is far from new. This idea has been exemplified in medicine for over two thousand years. And lawyers have had written codes of ethics during the two centuries. Although university faculty could profit from a well formulated and implemented ethical code, the analogy with formulating a grammar should remind us of the difficulty of constructing a code that is adequate in

representing the operative ethical standards of a profession.

B. Possible goals of codes of professional ethics A code of professional ethics can focus on:

1. Minimal standards or disciplinary rules

These are standards whose violation can get one dismissed, defrocked or disbarred.

2. Standards of reasonable performance

These identify the kind of performance that make a person worth hiring or keeping as a professional.

3. Standards of truly excellent performance

These identify performance that realizes our aspirations and ideals, that qualifies one for recognition and awards.

4. Important general principles and goals

These guide behavior in areas that are not covered by familiar patterns of practice or by existing codes of ethics. They may express what a profession takes its central purposes to be.

A code setting out minimal standards and a code setting out general principles and goals would be very different documents. It isn't clear which of the four things listed a code of academic ethics should attempt to do. It is possible, of course, to

attempt to do two or more of these things in a single code.

C. General and specialized norms The behavior of university faculty is guided both by the general mores or norms of society as well as by the specific norms of university faculty and their disciplines. By "norm" I mean to cover all kinds of standards, prescriptions, rules, principles and goals. A general norm, such as the prohibition of theft, applies to everyone in society. A specialized norm, such as a prohibition of inventing experimental data, applies only--or mainly--to people whose study or work involves scientific experimentation. One might expect that a code of professional ethics for a discipline would include no general norms, that it would consist entirely of specialized norms focused on the work of that discipline. This, however, is too simple a view, since the violation of certain general norms may be especially tempting to members of a particular profession. Thus we need three categories:

1. General norms that require no special emphasis in connection with a particular profession Codes of professional ethics for lawyers do not generally include prohibitions of murder. Everyone has the duty not to murder, and experience has not

shown lawyers to be especially tempted or inclined to murder. Thus there is no good reason to include this norm in a code of ethics for lawyers.

2. General norms that need special emphasis in connection with a particular profession Everyone has the duty to avoid fraud, but perhaps accountants are especially likely to be tempted to commit fraud given the nature of the work they do. They may be tempted, for example, to help their clients gain bank loans by preparing fraudulent statements of net worth. If this is correct, then it would be appropriate to include in an ethical code for accountants a prohibition of fraud. Special temptations, however, are not the only reason for connecting a general norm with a particular profession. A general norm might be included in a profession's ethics code because it expresses the distinctive values of that group.

3. Specialized norms of a particular profession These norms are unique, or nearly unique, to a profession. Specialized norms for lawyers will be mostly different from specialized norms for professors. These norms pertain to offenses that only members of a particular profession can commit because only they have the positions, powers, privileges or duties that make these offences



possible. For example, a norm prohibiting false arrest is a specialized norm; it only applies to law enforcement officers and others with the legal power to make arrests.

It is sometimes difficult to decide whether a norm fits in category two or category three. This may depend on how we describe it. For example, a prohibition of using someone else's ideas without attribution may fit in category three if we describe it as plagiarism, but in category two if we give it the more general description of theft. This example also illustrates that some specialized norms apply to more than one profession. A norm forbidding plagiarism might be appropriate to professional codes for professors and journalists, but not to codes for accountants or doctors.

IV APPLYING THE FRAMEWORK TO ACADEMIC ETHICS

The distinctions made in the previous section raise some questions about how to proceed if we

want to give more attention to academic ethics. The distinction between ethics and codes of ethics raises the question of whether developing and implementing a written code of ethics is the best way to proceed. The distinctions between four possible goals of a code of faculty ethics raises the question of whether we just want standards for disciplining people who do very badly or whether we want to include standards of excellent behavior and aspirations and ideals. And the distinction between generalized and specialized offences raises the questions of whether there are any general offences that faculty are especially likely to commit and whether there are specialized offences that are made possible by the roles, powers, privileges and duties of university faculty.

If we can answer these questions, then we will begin to have some idea of what form increased attention to academic ethics might take. I don't have space for full responses to these questions, but I'll offer some brief responses that I think plausible.

A. *Do we need a code of ethics for university faculty?* If properly constructed and applied, a code of ethics for university faculty would be useful. Such a code could help educate faculty

and students about academic standards and goals, give department chairs and deans some authoritative standards to appeal to in dealing with colleagues who behave or perform badly, and offer the public some assurance that ethical issues in university life are recognized and taken seriously.

The process of deliberating about and formulating a code of ethics for university faculty would itself be useful, quite apart from its outcome, since such deliberation would enrich our intellectual and cultural resources in this area. This process might occur at the national level through organizations such as the AAUP and through disciplinary associations such as the American Historical Association. At the local level it might occur within the faculty organizations of particular universities.

Our earlier analogy between a written ethical code and a written grammar reminds us, however, that people can speak and behave perfectly well without without having or knowing any written formulation of their linguistic or moral competency. Further, an ethical code that is badly formulated or administered may contribute little or nothing to good

conduct. Constructing and implementing an ethical code is worth doing only if it can be done well.

The analogy between a written grammar and a written moral code is misleading in at least one way, namely that there is probably greater diversity in moral beliefs and attitudes in American universities than there is diversity in the linguistic patterns of educated speakers of American English. This diversity may itself provide a reason why it is worthwhile to make an effort to formulate common standards of acceptable conduct.

B. Are there general offences requiring special emphasis in the university context? I think that the answer to this question is affirmative. Sexual harassment is an example of a general offence that ought to be given attention and emphasis in the university.⁵ We might characterize sexual harassment as using one's position or influence to induce a person in a subordinate or less powerful position to behave in ways one finds sexually gratifying. This is a general offence since it is possible in almost any area of life or work. It deserves emphasis in the university context because students are in a stage of life in which they are sexually attractive and interested in relationships and because faculty are

often in a position to take advantage of their role and power for sexual purposes.

Other general offences might be included not because they are more likely to occur in a university but because they connect with the role of the university or with values that academics emphasize. One example is a norm prohibiting lying, fraud and slander. These all involve persuading people of things that are known by the speaker to be false--and this type of persuasion is especially inappropriate in an institution committed to the pursuit of truth and knowledge. Another example is discrimination based on race, gender, religion, or social class. This offence is worth emphasizing in a code of university ethics not because faculty are especially likely to engage in such discrimination, but because it is especially repugnant in an institution whose appropriate test for admission is whether someone is committed to and capable of a quest for knowledge and, more specifically, committed to and capable of pursuing the goals of particular disciplines such as biology or English literature. Michael Walzer put this as follows: "If the teachers see a likely student, they take him in. At least, that is the way legendary, and therefore ideal, teachers behave; they ask none

of the conventional questions about wealth and status."⁶

C. Specialized offences To see how faculty life admits of specialized offences we have to inquire into the position, powers, privileges and duties of faculty members. This is to ask whether the distinctive roles of faculty members make available to them offences that are not available to the general public. Here we need to remember my earlier warning that which of these categories an offence fits into may depend on how abstractly we describe it.

One way of conceiving the ethics of a profession is in terms of preventing abuses of the distinctive privileges that members of that profession have. Kenneth Kipnis suggests this view in his book, Legal Ethics.⁷ Kipnis emphasizes, for example, the attorney-client privilege of confidentiality and ways in which it can be abused. But we should attend not only to the misuse of professional perogatives, but also to the failure to meet distinctive professional responsibilities. This broader approach looks at a profession's special liberties, powers and rights (the benefit side) and at its distinctive duties, responsibilities and liabilities (the burden side).

To follow this approach, we can try to identify the distinctive privileges and responsibilities of university faculty members. University faculty are both teachers and researchers; we can expect them to share some privileges and responsibilities with both teachers outside the university (e.g., public school teachers) and with researchers outside the university (e.g., researchers working for government agencies or private firms).

1. Teaching The responsibility of the university teacher is to help students acquire advanced levels of knowledge and competency. To provide such help in an effective way, one must have and maintain an advanced level of competence in one's field. Keeping up with one's field is often difficult, and one may be tempted to give up the struggle. Because of this, a code of faculty ethics should emphasize the teacher's responsibility to devote sufficient time to activities such as reading, laboratory work, research, scholarship, conversing with colleagues, and attending conferences. Knowing one's field is not, of course, sufficient. One also has to be able to communicate this knowledge or competence to one's students. Here a code of faculty ethics could emphasize the teacher's

responsibility to acquire and practice effective teaching procedures.

The privileges of a university teacher include: (a) having access to people's minds during a formative period; (b) setting the syllabi and choosing the texts for one's courses; (c) choosing how to teach particular class sessions. These privileges can be abused in a multitude of ways. Among the more obvious abuses are indoctrination, which we might characterize as teaching in a way that inculcates beliefs without exploring the grounds for those beliefs and possible objections to them. Another is fostering the formation of a personality cult, which we might characterize as glorifying oneself and slandering colleagues as a means to gratification and power; a third is diverting class sessions away from the subject of the course to extraneous topics.

2. Research Abuses in teaching have received more attention than misconduct in research. There are a number of reasons for this. First, we have a lot of experience with the teacher-student relationship; nearly everyone in the United States has experienced it. The ethical dimensions of this relationship are consequently more familiar. Second, research doesn't have built-in observers in the way

that teaching does. Research is a less public activity than teaching, especially at the moments when crucial results or data are found. Another way of saying this is that the teacher is generally much closer to his clients than the researcher is. Third, the mythology of science as value-free has discouraged inquiry into the ethics of research and kept us from giving full recognition to the moral and legal dimensions of this activity. We are beginning, I think, to recognize that adherence to appropriate values and norms is central to doing good research. To say the same thing in a more contentious way, scientific and scholarly activity presupposes values and norms.

The fact of limited development in this area should be put together with the fact that research is often an area of greater pressure than teaching in university life. In many universities, the academic game is won or lost in accordance with the success of one's research. Since we haven't given much attention to this area, and since it is an area where faculty are under considerable pressure to succeed, perhaps it would be wise for academics to devote some time and energy to it.

We can follow the same strategy in thinking about the ethics of research that we followed in

discussing the ethics of teaching. We can begin, that is, by asking whether there are any general moral principles that ought to be emphasized in this context, either because of special temptations or because these principles express something important about the activity. One principle, which is supported on both of these counts, is honesty in presenting one's procedures and results. Researchers are sometimes tempted to manufacture data, to fudge the data a little, or to exaggerate its significance. Thus it would be worth mentioning in a code of research ethics that scrupulous honesty is required in communicating one's results.

A second approach to thinking about research ethics is to ask whether the distinctive powers, privileges, or responsibilities of a university professor make it possible for him or her to commit distinctive sorts of abuses.

Perhaps the most important privilege of a university professor in regard to research is having time with pay for doing it. A university faculty member is given time, and control over that time, so that he or she can pursue research questions that are worth answering and that suit his or her abilities and resources. The abuses here are obvious and familiar.



One abuse is not making effective use of the time one is paid for, perhaps by spending too much time in the faculty lounge and too little time in the study, library or laboratory. Another is diverting this time to private ends. Here I have in mind something like using one's afternoons to run a real estate business or to develop one's skills as a rock climber.

A second privilege of university faculty members is to conduct their research in an environment that is fairly free from public scrutiny and regulation. It is a good idea to insulate the study or laboratory from extraneous influences so that researchers can follow their noses and judge on the basis of what they take to be the best evidence. But this privilege should not be a license, for example, to fudge experimental data or to inflict unnecessary pain on laboratory animals.

A distinctive responsibility of university researchers is to give a fair amount of credit to others for their work or ideas. Interestingly, this is a duty of fairness that, with honesty, is at the heart of scientific activity. The severest case of failure in giving fair credit is representing someone else's work as one's own. This is common enough to have an ugly name: plagiarism. Milder failures in this

respect might involve giving someone else too small a share of the credit, as when a graduate student whose ideas are the basis for a paper is relegated to second author, or giving oneself too much credit, as when one inflates the importance of one's discovery or publication in guiding or stimulating subsequent work.⁸

NOTES

1. Exceptions to this are Steven M. Cahn, Saints and Scamps: Ethics in Academica (Totowa, N.J.: Rowman & Littlefield, 1986); and "The Obligations of University Teachers." Minerva XX (1982), 105-212.

2. Model Code of Professional Responsibility, American Bar Association, Committee on Ethics and Professional Responsibility, 1969 with subsequent amendments.

Code of Judicial Conduct, American Bar Association, 1972.



3. Diether H. Haenicke, "Ethics in Academia," Papers Presented to the Center for the Study of Ethics in Society, Vol. 1, No. 2 (January, 1988), p 2.

4. Diether Haenecke rightly emphasizes that because of modest salaries many professors are likely to be strongly attracted by opportunities for consulting or for commercializing scientific discoveries. Pursuit of these opportunities sometimes leads to neglect of faculty duties or conflicts of interest. See Haenecke, pp. 7-12.

5. See Haenicke, pp. 4-7.

6. Michael Walzer, Spheres of Justice (New York: Basic Books, 1983), p. 202. See generally Chapter 8: "Education."

7. Kenneth Kipnis, Legal Ethics (Englewood Cliffs, NJ: Prentice Hall, 1986).

8. So that I don't commit the offence of giving myself more credit and others less than is due, I would like to acknowledge the assistance with this

8. So that I don't commit the offence of giving myself more credit and others less than is due, I would like to acknowledge the assistance with this paper from Ann Davis, Jackie Colby, Ken Howe, and Joseph Ellin.

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"Breaking the Rules in Organizations:
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7:30 p.m., 1010 Fetzer Center
"Developing a National Data Base of
Whistleblowing Incidents"
- Oct. 14** **WMU Peace and Global
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Ronald Kramer, Sociology, Chair
Kenneth Dahlberg, Political
Science & Environmental Studies
Arnold Gerstein, General Studies -
Humanities
Shirley Van Hoeven,
Communication
- Oct. 21** **Arthur Elstein**, Center for
Educational Development,
University of Illinois-Chicago
3:00 p.m., 3020 Friedman Hall
"Should Nazi Experimental Data Be
Used in Medical Research?"

- Oct. 26 **Michael Davis**, Philosophy, Illinois
Institute of Technology
7:30 p.m., 1010 Fetzer Center
"Codes of Ethics in Business"
- Oct. 27 **Michael Davis**
10:00 a.m., 3020 Friedman Hall
"Punishment Theory Today"
7:30-9:00 p.m., 2750 Knauss Hall
"How to Keep Good Apples from
Going Bad"
- Nov. 8 **Peter Yeager**,
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7:00 p.m., Red Room,
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Business:
Assessing the Organizational
Dimension"
- Nov. 28 **Charles Blatz**,
Visiting Associate Professor of
Educational Policy Studies, U-Illinois
-Urbana
3:00 p.m., International Room,
205 Bernhard Center
"Ecology, Epistemology, Ethics:
Getting It Right One Case at a Time"
- Dec. 2 **Shirley Bach**, WMU
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