

climate they will face? Don Gehring and Sophie Penney provide their view about preparation program training that our profession needs to consider.

There are a number of specific student groups and services which receive attention in the next several articles. Liz Baldizan and Jim Frey look at moral development issues with student athletes. This balancing act has permeated intercollegiate athletics for some time. This article explores the impact this has had on the students involved.

Bonita Jacobs, Marcia Hayes-Harris, Charles Lopez, and Jeanine Ward look at the balancing of legal and ethical concerns within the framework of a specific student service: orientation. Small college counseling centers and the difficulty with dual relationships and other ethical issues are then discussed in an article by Laura Dean.

Several emerging problems are presented in the next section of this first special edition. Rosa Cintr6n explores the difficulties in balancing legal and ethical aspects of faculty/staff and student relations. She explores several experimental models in place around the country for providing structure to these relationships. Cathryn Goree and John Marszalet raise concerns and suggest guidelines for discussion about conducting research via electronic mail. Then Cathryn and John present the results of an electronic survey they conducted which explores the perceptions of gay, lesbian, and bisexual students concerning the adherence of student affairs offices to ethical standards. Finally, concerning Carlin Mitchell and Martha Wisbey review the literature on academic integrity and moral development.

We are also including in this special edition of *The College Student Affairs journal* two reviews of a book published last year, *Reform in Student Affairs: A Critique of Student Development*. Robert Brown and Aaron Hughey provide their diverging opinions on this controversial text.

We invite you to read and consider this and the companion spring issue of *The College Student Affairs Journal* carefully. We believe the issues posed here are at the core of a dialogue about the direction and character of our work in student affairs for the long-term future.

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The Legal and Developmental Perspectives: A Question of Balance

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Mat is the balance and meaning of decisions in student development in the context of legal and ethical dimensions of that work? How do we consider professional accountability while maintaining a respect for developmentally appropriate practice? Through the Decision Perspective Survey, SACSA members were asked to consider the extent to which they considered educational/development versus legal issues when making decisions in their work. The results indicate a change in emphasis in decision making with significant new consideration given to legal aspects. The authors consider the implications of this shift and its meaning for the future of student development work.

A review of recent periodicals and news stories is sufficient to convince even the most optimistic devotee of higher education that these are troubled times. A University of Idaho freshman's attempt to sue the university for damages suffered while "mooning" his friends is illustrative. Pressing his hindquarters against a plate glass window, the student fell three floors when the "Window shattered. He subsequently brought suit against the university accusing negligence for "failing to warn residents of the danger associated with the upper- story windows" (Gose, 1994, p. 27). He sought \$940,000 for medical treatment and for "trauma." Such cases, while colorful and perhaps primarily a nuisance, are, unfortunately, increasingly common. As a bellwether definition of relationships in our contemporary society, the growth of such cases far outweighs the meaning of their success or failure in court. Today's students regularly resort to litigation in a variety of causes against institutions. They are not alone. Parents' concerns and resulting litigation about safety on campus have served as a launching platform for federal legislation requiring a variety of reporting and protective actions of colleges and universities.

Campuses appear literally and figuratively as combat zones in the redefining of our educational communities where the adversarial frequently has

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displaced real discourse. Speech codes are regularly enacted in attempts to ensure civility and are as regularly overturned in the courts. Such codes may provide employment opportunities for lawyers but do little to reinforce the tradition of free speech and civil behavior in academia (for a thoughtful discussion of these issues, see Hartman, 1993). Publications devoted to higher education law and risk reduction have become a growth industry. They are also the indicator of a deeper trend.

What such examples suggest is a significant shift in the firmament of the higher education community. For a variety of reasons the American public's lengthy love affair with higher education has shown increasing signs of alienated affection. The public does not trust higher education and specifically the administrators of the institutions. In their 1989 book *The Cynical Americans*, Kanter and Mirvis reflected this trend. Their research indicated 43 percent of Americans rated themselves as cynics with mistrust for large-scale institutions and especially those in the public sector.

Many in higher education, detecting this shift, are ill at ease with their institutional response. Higher education, already short of resources, increasingly has been forced to deal with the issue of accountability, much of it within the legal or liability aspects of the college experience. Within institutional walls, some believe that our response to this challenge has ignored or significantly reduced our attention to the substantial opportunities for exploring ethical and moral issues which traditionally have been a part of the foundation of the undergraduate experience. A recent survey of institutional personnel concerning their perceptions of institutional response to The Joint Statement on Rights and Freedoms of Students confirms this discomfort (Cooper & Lancaster, 1995).

When questioned about their perception of institutional support for various issues expressed in the joint Statement on Rights and Freedoms of Students, respondents indicated certainty that institutions were attending to legal/rational issues (e.g., due process, non-discrimination, etc.) while expressing a less decisive view of institutional responses to ethical/philosophically based issues (freedom of association, co-curricular independence, etc.).

Institutions of higher education have increasingly been subjected to varying requirements for accountability, both from state and federal governments as well as an increasingly demanding public. Federal legislation in particular has placed a growing burden upon administrators to deliver many of the safeguards previously assumed under the doctrine of *in loco parentis* without the implied authority to control general student behavior. Society has imposed growing expectations about institutional liability for student well-being as well as institutional responsibility for the accomplishment of larger societal goals. Such expectations may be viewed in juxtaposition to the substantial litigation that has disassembled *in loco parentis* and reinforced the tort liability of institutions.

One continuing debate concerning the Joint Statement suggests that student responsibility is not discussed while student rights and freedoms as consumers are emphasized. Indeed, the current draft of the Joint Statement is notable in that the 17 footnotes which accompany the original text all reflect specific legal concerns mitigating the original language. It is not unreasonable to assume that differences in levels of agreement over certain of the joint Statements may reflect a growing institutional tendency to answer concerns about student rights and freedoms from a legal rather than a more traditional ethical basis (Cooper & Lancaster, 1995).

In College: The Undergraduate Experience in America, the Carnegie Foundation suggests "that the undergraduate college, the very heart of higher learning, is a troubled institution. . . . [and that] many of the nation's colleges are more successful in credentialing than in providing a quality education for their students. It is not that the failure of the undergraduate college is so large but that institutional expectations often are too small" (Boyer, 1987, p. 2). In *Campus Life: In Search of Community*, the Carnegie Foundation notes a similar and related problem in their plea for a "renewal of community" as a fundamental bulwark in the support and continued health of both higher education and the larger society (Carnegie, 1990). Psychiatrist Peck, in his book *A World Waiting to be Born* (1993), laments the loss of civility in society and suggests means for reversing this trend. In Peck's view, our loss of common civility toward one another is a direct outgrowth of our failure to address the ethical considerations of our behavior toward one another. We do not share or discuss common values and thus fail to have any ethical basis for our actions. Ultimately, we disregard the effect of our actions on others.

In higher education, these problems are frequently reflected in a failure to "call the question" of appropriate behavior. Increasingly, we find our professional lives in a struggle to define the proper balance between accountability to legal policies and our professional belief in developmental/ ethical issues. There is a perceived danger that we will address our relationship with students by resorting to the relative safety of proceduralism and legalities. While necessary to some extent, an over-reliance on proceduralism, by design or default, allows us to avoid the ethical and developmental issues which define our profession.

The problem has been acknowledged through the actions of several professional organizations. The National Association of Student Personnel Administrators (NASPA) has sponsored a study entitled *Reasonable Expectations* (Kuh, Lyons, Miller, & Trow, 1994), which seeks to redefine the relationship between the student and the institution. In a similar development, The American College Personnel Association (ACPA) has sponsored *The Student Learning Imperative* (ACPA, 1994), an effort to define how and what the student development process yields in higher education. Each in its own way has sought to revisit the connection between learning and development while

providing some means of professional accountability in its broadest sense. In short, our profession is apparently revisiting its meaning.

The campus community is increasingly defined in the courtroom and other public settings far removed from academe. As persons committed to a belief in developmental and educational relationships with students, our response to this trend will, directly or indirectly, define our future. This research explores the balance and meaning of our work as student development professionals in the context of our accountability for that work. It has been defined through conversations with professional colleagues and can be seen reflected in a review of any of the many similar program topics at numerous national meetings dealing with accountability. All confirm a general and growing discomfort concerning self assessment of our work.

The issue of balancing what we assume to be our values as a profession with the need for accountability to various publics has apparently been on our collective mind for some time. Yet if understood in an intuitive way by many in student development, this question of balance has only recently begun to yield qualitative or quantitative research within the student development profession. Therefore, an instrument was designed to begin to explore ways of measuring the cognitive dissonance between legal and educational/developmental perspectives as they define student development work.

Methods

The Decision Perspective Survey was designed by the authors based on our previous research. The authors then asked three chief student affairs officers to review the survey for their impressions and to assist in establishing content validity. The survey was then piloted with the North Carolina Association for Women in Education. Responses from this group (along with their male cohorts) were then reviewed to arrive at the final survey instrument.

The questionnaire asked respondents to consider the process they use when making decisions related to the performance of their jobs. A seven point Likert- type scale was used for ascertaining the extent to which respondents considered educational /development versus legal issues when making decisions in their work. Respondents were further asked to indicate how they believed they would have responded to the same question three years ago.

The legal perspective of the scale was defined as a concern for the risk management, liability reduction, policy development, and adherence to policy outcomes likely to result from a decision. This perspective reflects a legal/rational based response in the administration of student affairs. An educational/developmental perspective was defined by a concern for the affective outcomes likely to result from the decision. This perspective is reflective of a traditional/developmental based response in the administration of student affairs.

A pre-selected group of Southern Association for College Student Affairs (SACSA) members was sent the Decision Perspective Survey and a stamped-

return envelope. The surveyed group included 426 SACSA members who were not graduate students or new professionals. Because of the wording in the survey, it was important to have responses only from student affairs practitioners who had been working in the field for at least three years. Of the 426 surveys mailed, 265 surveys (62.2%) were returned, and of those, 227 (55.9%) were used in the data analysis [38 surveys were not useable due to incomplete responses]. The demographic breakdown of the sample used in the data analysis is included in Table 1.

Table 1
Demographic breakdown of the SACSA membership
Included In this analysis

<u>Demographic Information</u>	<u>Percentage</u>
<u>Gender</u>	
Female	41.0
Male	59.0
<u>Institutional Type</u>	
Public Institutions	70.5
Private Institutions	29.5
<u>Headcount</u>	
0-5000	35.0
5001-10000	21.5
10001-15000	12.7
over 15001	30.8
<u>Education</u>	
Bachelors	4.2
Masters	43.0
Specialist	2.1
Doctorate	50.6
<u>Position</u>	
Chief Student Affairs Officer Non-	32.9
Chief Student Affairs Officer	67.1

Results

All participants indicated that they gave more thought to both the legal and the educational/developmental ramifications of their decision making today than was the case three years ago (see Table 2). While statistically significant across the three years in each question, the magnitude of the change scores for

Table 2
Change in Ratings from 1991-1994 for all Participants

<u>Administrative Issues</u>	<u>Legal</u>			<u>Educational / Developmental</u>		
	<u>Change Score</u>		p</t/	<u>Change Score</u>		p</t/
	X	t		X	t	
Personnel	1.29	16.15	.0001	.24	3.39	.0008
Fiscal / Budgetary	.60	8.21	.0001	.22	3.55	.0005
Planning and Assessment	.95	11.20	.0001	.76	8.48	.0001
Policy	1.20	14.30	.0001	.37	5.54	.0001
Campus Discipline	.97	10.56	.0001	.23	2.81	.0054
Daily Operational Management	.93	11.57	.0001	.32	4.89	.0001

Note: All change scores were positive, indicating increased reliance on consideration of legal and educational / developmental concerns in student affairs administration.

The shift in the legal perspective was particularly interesting, with the most significant changes occurring in personnel and policy decision making.

Table 3 indicates changes in the responses to these two perspectives broken down by gender. Only two administrative issues showed any significant differences between the male and female respondents. Women were more likely than men to indicate a change in the three year period in how much attention they gave to the legal concerns in making decisions about fiscal/budgetary issues and planning and assessment. No significant differences based on gender were seen in attention given to the educational/developmental perspective.

The “ of institutional affiliation, public and private, showed several significant differences in the attention given to legal concerns. Respondents from private institutions indicated that they paid significantly more attention to legal concerns in decisions related to policy making now than they did three years ago. These respondents also indicated a greater increase in the amount of attention given to legal concerns on their campuses over the past three years as compared to respondents from public institutions. No significant differences between the two groups were seen in attention given to the educational/ developmental perspective.

Table 5 contains the change scores for chief student personnel officers versus all other respondents. No significant differences between the two groupings

were seen on any variable.

Finally, respondents were asked where they thought student services practitioners should be on the two continuums, legal and educational/developmental. While both approaches to administrative decision- making were viewed as important, respondents expressed the opinion that student affairs practitioners should be more concerned with educational/developmental ramifications than with legal issues (/ t / = 11.757, p < .0001).

Discussion And Implications

It is apparent that respondents to this survey spend much more time today in consideration of legal issues than was the case only three years ago. Yet, how could it be otherwise? Professional journals, legislative bodies, parents, and students constantly bombard student development professionals and their institutions with issues framed in legalistic terms. Attorneys have become a part of many institutional administrations and are frequently consulted on a variety of student life issues and, in some cases, feel it is their responsibility to assist in defining the boundaries of such issues. In light of these considerations, can student affairs professionals find the balance between the legal and developmental? The early indicators are not always encouraging.

Table 3
Change in Ratings from 1991-1994 by Gender

<u>Administrative Issues</u>	<u>Legal</u>		<u>Educational / Developmental</u>	
	<u>Mean Change Score Women</u>	<u>Score Men</u>	<u>Mean Change Score Women</u>	<u>Score Men</u>
Personnel	1.43	1.17	.25	.24
Fiscal / Budgetary	.94**	.38	.24	.25
Planning and Assessment	1.20**	.79	1.47	1.24
Policy	1.37	1.11	.48	.30
Campus Discipline	1.07	.92	.24	.26
Daily Operational Management	1.03	.88	.45	.28
Where would you place your campus?	1.35	1.10	.60	.40

**p<.01

Table 4
Change In Ratings from 1991-1994 by Institutional Type

<u>Administrative Issues</u>	<u>Legal</u>		<u>Educational / Developmental</u>	
	<u>Mean Change Score Public</u>	<u>Private</u>	<u>Mean Change Score Public</u>	<u>Private</u>
Personnel	1.24	1.37	.23	.28
Fiscal / Budgetary	.65	.50	.20	.31
Planning and Assessment	.95	.98	.81	.71
Policy	1.11*	1.50	.32	.52
Campus Discipline	1.00	.97	.27	.22
Daily Operational Management	.87	1.12	.32	.39
Where would you place your campus?	1.02**	1.62	.37	.67

*P<.05 **p<.01

Table 5
**Change In Ratings from 1991-1994 for Chief Student Affairs
Officers and Other Student Affairs Administrators**

<u>Administrative Issues</u>	<u>Legal</u>		<u>Educational / Developmental</u>	
	<u>Mean Change Score CSAO</u>	<u>Non-CSAO</u>	<u>Mean Change Score CSAO</u>	<u>Non-CSAO</u>
Personnel	1.20	1.33	.08	.33
Fiscal / Budgetary	.43	.70	.41	.16
Planning and Assessment	.95	.96	.78	.77
Policy	1.25	1.21	.53	.30
Campus Discipline	.97	.99	.48	.14
Daily Operational Management	.95	.94	.37	.33
Where would you place your campus?	1.28	1.17	.58	.42

At least one widely read and earnestly debated recent work (Bloland, Stamatakos, & Rogers, 1994) has suggested that student development itself is a fraud, without either the research, professional practice, or outcomes to justify it as a basis for practice (see elsewhere in this issue for a critical review of this work). In North Carolina, a state-wide drug policy acts out this viewpoint. Enacted by the Board of Governors of The University of North Carolina and affecting all 16 campuses of the system (Board, 1988), the policy, while styling itself as educational has, in fact, many contrary effects. By mandating penalties without regard to either mitigating or developmental issues, it prohibits student affairs officers from exercising their professional judgment in drug related cases. A student found guilty of any transfer of marijuana, for example, is automatically suspended for a minimum of one semester, regardless of amount or circumstances. The teachable moment for the individual student, who may be experimenting with low level substance abuse, is thus lost in favor of the required and singular legal outcome that the student will be removed from the campus community; problem solved. While few would doubt the efficacy of removing drug dealers from campus settings, an individual student involved in transfer of marijuana to an individual friend might be judged as developmentally immature rather than as a menace to society. The policy response in North Carolina denies the virtue of that developmental approach in favor of the expedient elimination of the problem.

The study indicates that private campuses have changed in their approach as well and are concerned about legal issues which were of little interest to them three years ago. While it is tempting to suggest that there are simply more such issues and therefore a natural increase in the concern with them, this begs a larger question. Since all institutions in our survey indicated greater attention to legal issues, we must assume that the significant growth of interest for private institutions is a major shift in the environment of private higher education. A singular implication of this shift is a potential narrowing of the differences in approach which in part define private versus public institutions. This in turn decreases the diversity of higher education and, if left unchecked, threatens the ability of institutions to respond to the varying demands of an increasingly diverse society. It also suggests that the already growing public funding of private education may become even more commonplace as these institutions rely on such funding as a means of responding to growing legislative demands for accountability.

Little difference was seen in the responses to the survey by senior student affairs officers versus line level student development administrators. This finding may suggest that the shift in balance between legal and educational issues has found its way pervasively to every level of the institution. Far from representing the early indication of an emerging trend, the survey results suggest a well-established new value set for higher education, at least in the practice of student development.

This research, taken in common with emerging studies such as *Reasonable Expectations* (Kuh et al., 1994) and *The Student Learning Imperative* (ACPA, 1994)

suggests that our profession is at a crossroads. This crossroads will be unlike Frost's "The Road Not Taken" (1916/1980). In that tale, two roads diverged and while the author reckoned what might have been, one could at least take comfort that others would still have the choice to make. For the profession of student affairs, failure to take the "right" road at this juncture may forever foreclose another choice for future generations. If our profession becomes so bound in managing risk, assessing quantifiable outcomes, and reacting to the legal and legislative enactments of third parties, we risk saving our seats while losing our souls.

The virtues which created our profession are well described in *A Perspective on Student Affairs* (NASPA, 1987). These virtues allowed us to study, understand, and translate institutional student life. It appears that, for some institutions, these virtues have now become liabilities which offer neither hard currency nor quantifiable outcomes. While no one can debate the need for financial solvency or reasonable measures of success and failure, the human condition, especially as it applies to student learning is far more complex than any single scale of measurement.

Students are living, growing, and developing entities. Their education demands our best efforts, not only for the reduction of risks and assessment of achievements, but for the nurturing of spirit and appreciation of the human condition which the profession of student development, at its finest, offers. While education can be accomplished without consideration of developmental issues, it can be fully realized only through consideration of the full person. Those in student development have traditionally been the strongest advocates of this belief.

Pascal (1670/1980) understood the balance between the rational and developmental, between the heart and the mind. We can have no better guide than his words, "The heart has its reasons which reason knows nothing of ... We know the truth, not only by the reason, but by the heart" (p.300).

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