

Review of Anne M. Hornak's

ETHICAL AND LEGAL ISSUES IN STUDENT AFFAIRS AND HIGHER EDUCATION

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As higher education becomes more litigious, especially as it relates to student affairs, faculty and staff are inundated with information on potential ethical and legal issues pertaining to their job responsibilities.¹ The amount of information can be overwhelming and confusing. Although most schools have a legal counsel's office, and sometimes an ethicist, to make sense of this information, these resources may not have the capacity to proactively train administrators on all relevant laws as well as ethical decision-making. Faculty and staff need a concise yet detailed resource to refer to and, for the most part, *Ethical and Legal Issues in Student Affairs and Higher Education* fits the bill.

This book is immensely helpful for higher education administrators, and particularly newer student affairs staff, learning to make ethical decisions when faced with complex dilemmas. Likewise, more seasoned administrators may benefit from using this book as a resource for building a culture of ethics at their institution. However, the text falls short on describing all of the complicated legal issues at play. Although there is a dedicated chapter on the current legal issues affecting student affairs, the book would benefit from including a legal perspective throughout the text. Nevertheless, I recommend that legal counsel read this book to understand the mind-set of higher education administrators when faced with an ethical or legal quandary.

The foreword by Naijan Zhang and the first chapter by Anne M. Hornak, successfully set the stage; readers can expect qualified student affairs professionals (including heavy hitters, such as José A. Cabrales and Tricia Bertram Gallant, among others) to discuss multiple aspects of ethical decision-making. The book aptly begins with Jonathan J. O'Brien detailing a variety of ethical foundations, frameworks, and theories, along with briefly touching on their benefits and limitations. Peppered throughout the chapter are examples and vignettes, specifically including American College Personnel Association's (ACPA) 2017 "Respect Happens Here"

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¹ An online search of the *Chronicle of Higher Education* (www.chronicle.com), conducted February 17, 2020, for articles containing the term "law and higher education" reveals 600 published pieces in the past three years; 250 of those are related to student affairs.

campaign² launched by a coalition of student affairs professionals to promote campus civility. While it's certainly not all-inclusive, this chapter packs a lot of theoretical frameworks into a limited number of pages, allowing readers to get a sense of the foundation of ethical decision-making.

Building on the previous chapter, chapter 3 highlights three decision-making frameworks from the counseling profession,³ organization management,⁴ and accounting.⁵ The author walks you through making a difficult decision using each framework. Throughout the chapter, Anne M. Hornak emphasizes the importance of viewing a problem from multiple perspectives, and urges student affairs practitioners to consider the moral and ethical consequences—in addition to the legal consequences—of a decision. Although the author clearly implies that the law must be followed, the chapter would benefit from an explanation on how legal and ethical obligations could be at odds, and how you reconcile those differences. The chapter does, however, include several nuanced examples of realistic and complicated ethical decisions that are helpful, even without explicit legal implications. Interestingly, the chapter concludes with a case study that is geared toward students and not the primary audience of higher education administrators.

In chapter 4, authors V. Barbara Bush and Daniel Chen view ethics from a wider lens. They begin to explain the importance of ethical culture, in addition to individualized ethics, which is more commonly discussed. The authors describe a need for creating conversations around ethical decision-making, offering ethic workshops for students, and promoting a culture of integrity. The authors go on to describe how administrators either support or hinder an ethical campus culture, yet they fail to mention how an administrator's morals and values can impact what they deem as ethical.

In the next chapter, Regina Garza Mitchell, Ramona Meraz Lewis, and Brian Deitz, fill in the gaps that chapter 4 is missing. Chapter 5 opens by discussing the importance of professional and personal ethics in decision-making, and how personal values and morals affect outcomes. The authors also spotlight the Council for the Advancement of Standards in Higher Education (CAS), an organization that reviews the ethical principles of many higher education organizations. Legal counsel may be interested in learning more about CAS and its guidelines that many colleges adopt. Perhaps the most valuable aspect of this chapter is the inclusion of an

² American College Personnel Association (ACPA), *Join the Respect Movement!*, ACPA—COLLEGE STUDENT EDUCATORS INT'L (2017), <https://www.myacpa.org/article/join-respect-movement>.

³ Vilia M. Tarvydas, *Ethics and Ethical Decision-Making*, in *THE PROFESSIONAL PRACTICE OF REHABILITATION COUNSELING* 339 (D.R. Maki & V.M. Tarvydas ed., 2011).

⁴ Thomas M. Jones, *Ethical Decision Making by Individuals in Organizations: An Issue-Contingent Model*, 16 *ACADEMY OF MANAGEMENT REVIEW* 366 (1991).

⁵ MARY ELLEN GUY, *ETHICAL DECISION MAKING IN EVERYDAY WORK SITUATIONS* (1990).

ethical scenario in which the authors describe each step of their decision-making process. The chapter concludes with another intriguing case, this time aimed at the audience running through their own decision-making process.

As the title promises, chapter 6 describes the legal implications student affairs practitioners should consider in their decision-making. The amount of information needed to discuss the current legal issues affecting student affairs could fill, and has filled, many volumes of books. Strikingly, in only one short chapter, Natalie Jackson and Janelle Schaller manage to provide a solid overview of student civil rights, free speech, due process, campus safety obligations, and privacy laws impacting student educational records. They even briefly mention the resources available to students who feel their rights have been violated by an institution. There are certainly more laws, policies, and information that could have been included in this chapter if space allowed;⁶ however, this is a strong foundation.

After a brief hiatus, the book then refocuses on what constitutes an ethical campus culture. Clearly showing her expertise on this topic in chapter 7, Tricia Bertram Gallant explores several facets of academic integrity. The author also utilizes Dalton and Crosby's (2011) conceptual paradigms⁷ to discuss the role student affairs professionals should play in creating and upholding an institutional culture of academic integrity. Bertram Gallant examines several ethical and legal considerations, such as due process concerns, and at times repeats information from earlier chapters. This chapter ends with case studies and role play scenarios for orientation leaders and resident assistants. While incredibly thought provoking, the case studies include unanswered legal questions that readers may wish the author commented on (e.g., when and to whom you can disclose a student's disciplinary record).

Chapter 8, written by Patricia L. Farrell-Cole and José A. Cabrales, discusses what an ethical campus culture at a Hispanic-Serving Institution (HSI) looks like. Colleges and universities become HSIs when they enroll twenty-five percent or more Latinx students, no matter how they intend to serve the Latinx population. The authors expand upon García's (2018) emphasis on the difference between Latinx-*serving* institutions and Latinx-*enrolling* institutions⁸ by focusing on whether or not a campus culture is equitable, educational, and welcoming for the students it intends to serve. Farrell-Cole and Cabrales then discuss how institutions can strengthen their support, education, and success of/for Latinx students. Throughout the

⁶ For student affairs professionals looking for a more robust legal reference book, I recommend: WILLIAM A. KAPLIN & BARBARA A. LEE, *THE LAW OF HIGHER EDUCATION*, 5TH EDITION: STUDENT VERSION (2014).

⁷ Jon C. Dalton & Pamela C. Crosby, *A Profession in Search of a Mission: Is There an Enduring Purpose for Student Affairs in U.S. Higher Education?*, 12 J. C. AND CHARACTER 1 (2011).

⁸ Gina Ann García, *Decolonizing Hispanic-Serving Institutions: A Framework for Organizing*, 17 J. HISPANIC HIGHER EDUC. 132 (2018).

chapter, readers are reminded that while the future of the nation's economy depends on educating Latinx folks (the largest racial minority in the United States), funding for higher education and specifically HSIs remains inadequate, an ethical complication in and of itself.

After much discussion about ethical decision-making from a multitude of perspectives, readers are now put to the test. A great tool for training and/or professional development, chapter 9, written by Tamara Hullender and Margaret Partlo, includes important ethical dilemmas that need untangling. While some of these case studies include legal considerations, they all live in the "grey area" and have no explicitly right or wrong answers. Appropriate for this book, the case studies include implications for new, mid-, and senior-level student affairs professionals.

The book concludes with a note from the editor, which properly summarizes the volume and again highlights various ethical principles and standards for professional practice, as created by several student affairs associations. Hornak also reiterates a tip, which is threaded throughout the book; student affairs professionals should consult legal counsel with a legal question and consult an ethicist when faced with an ethical dilemma. I suggest that legal counsel and ethicists read this book to get a sense of the information higher education administrators are receiving regarding ethical and legal decision-making.