

# Ethics and Values in the Contemporary University

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## Introduction

Many thanks to President Sample for an invitation to visit the Southland, particularly at a time when my university deserves its nickname of “good, grey Michigan”. Actually, there have been quite a few interactions between USC and Michigan over the last year. Three weeks ago I brought a group of scientists from the National Academies out to visit your Institute for Creative Technologies and to learn about the magic of computer simulation and gaming. Although I was not there, I understand that a group from Michigan visited Southern California on New Year’s Day to learn something about football. And about a year ago Lloyd Armstrong invited me out to compare notes on strategic planning.

But today the subject is ethics in higher education. I hope the timing was simply a coincidence, since a decade ago I was in the New Orleans Superdome watching the Michigan basketball play in the NCAA championship game. Although we were ahead by 3 points over North Carolina with a minute to play, we fell behind and then lost the game when Chris Webber called that famous illegal timeout. But the more serious matter would not become apparent until many years later when it was discovered by Webber (and later several other Michigan basketball players) had accepted illegal loans from a local Detroit basketball booster. We forfeited the NCAA Final Four wins, and the University’s basketball program was severely sanctioned. But more significant for our discussion today, Michigan provides a case study of just how damaging a lapse in integrity can be to an institution’s reputation. Although apparently no one within the institution knew about the infractions until years later, the damage was severe and lasting.

The same lessons have been learned in the business world. It has been a rough couple of years for those of you who now have to cope with the post-Enron world of Sarbanes-Oxley. As a member of two audit committees with Fortune 500 companies (including a global energy company whose external auditor was Arthur Anderson), I know all too well the intense scrutiny now being given to ethical business practices and the complexities that accompany additional

regulation driven by public concerns, as well as the pressure this places on boards of directors.

Yet those of us in higher education also know that the university we are not immune to similar concerns and ethical standards. As the Chancellor of the University of Texas, Mark Yudof, puts it:

“This is the era of Enron, this is the era of disclosure. This wave has already swept over the public schools, and now it is approaching higher education. Either you help to shape this accountability revolution so that it is done in an intelligent way, or you’re going to get swept over by it.”

### The Complexity of Ethical Issues

Of course, part of the problem here is the very complexity of issues and ethical incidents. To be sure, there are obvious cases that amount to essentially criminal activity, for example the cases with Enron, Tyco, and Worldcom. But what about more subtle business practices such as the predatory behavior of Microsoft to prohibit competitors from accessing their operating system, or the American automobile companies efforts to block enhance fuel economy, or pharmaceutical companies ignoring the needs of children for vaccinations and instead targeting drug development to the far more lucrative market of aging baby boomers.

The same is true in higher education. I am sure each o us have our own top David Letterman ten list of ethical lapses:

The loss of life in clinical trials for cystic fibrosis at U. Penn involving faculty who had vested interest in spinoff companies that stood to benefit from the trials.

The blatant conflict of interest of trustees at Auburn and Boston University, cutting business deals with one another at their institutions’ expense.

Athletics scandals such as the accusations of sexual assault in the University of Colorado football program.

Extreme cases of faculty misbehavior in areas such as scientific integrity, sexual harassment of students, and so forth.

But there are also more subtle issues that raise serious ethical questions:

The “management” rather than “avoidance” of conflict of interest in intellectual product commercialization that now is seriously distorting the scientific enterprise, limiting publication and even the cooperation among investigators.

Our tolerance of the abysmal graduation rates of college football and basketball players, now well under 50%, that clearly represent exploitation of these young students at a time when their coaches compensation (and hence conflict of interest) has soared to truly obscene levels.

Exposing our students to credit-card scams and other predatory commercial practices.

And, of course, Harvard’s award of over \$100 million in bonuses to their investment managers even as they are paying their hourly workers at minimum wage levels.

And, just as with the business community, lapses in ethical behavior can cause very great damage to the reputation and integrity of the university (and higher education more generally), undermining its privileged place in our society. Note that when one institution stumbles, we all get tarnished! Harvard’s myopia and Colorado’s negligence taint all of us, as public opinion surveys clearly indicate.

It all comes down to the need to make judgments and decisions on increasingly complex cases. This requires a solid foundation of institutional values that frequently goes beyond what the law would require.

It also requires an extensive program of education about fundamental institutional and social values for students, faculty, and staff, not just a focus on the laws.

Put another way, just as with the business community, universities are at increasing risk if they lack a clearly understood and accepted *code of ethics* and along with a *process* both for educating the university community and continually reviewing and revising when necessary both the code of ethics and the policies and guidelines for its implementation.

### The Areas of Concern

Clearly those areas that relate directly to the fundamental education and scholarly mission of the university such as

- Academic integrity
- Research accountability

But universities are places aimed at developing human potential and serving society, hence there are also concerns such as

- Faculty-student relationships
- Exploitation of students (e.g., by athletics programs, commercial concerns)
- Human subjects protection

Since universities are places where the young are not only educated but socialized, there are also issues such as student disciplinary policies, substance abuse concerns, sexual assault, and a host of “isms” such as racism, sexism, elitism, and extremism to deal with.

And of course, since many of our institutions are multi-billion global conglomerate, we also face most of the same challenges with business practices faced by any publicly traded corporation.

## The Growing Threats

### The impact of the marketplace

- Soaring commercial value of intellectual property
- Increasing university dependence on business activities  
(e.g., endowment management)
- Increasing faculty dependence upon external compensation  
(consulting, publishing, equity interests)
- Increasing financial pressures on “auxiliary” activities  
such as athletics and hospitals

### Mission creep (adding new enterprises with new risks)

- Technology transfer (equity interests)
- Real estate development
- International activities (Foreign Corrupt Practices Act???)
- Expansion of health care systems (acquiring physician practices)
- Technology—Internet (perfect reproduction at zero cost)
  - Software piracy
  - Peer-to-peer sharing of music, video

### Increasing visibility of university practices

- Athletics (exploitation of students for benefit of coaches)
- Business relationships (big pharm, IT industry, spinoffs)

### The increasingly Darwinian nature of competitive environment

- For best faculty and students
- For research grants and private gifts
- For winning athletic programs
- For reputation

A more fundamental issue: The degree to which the marketplace is replacing public policy in determining the nature of the higher education in America, just

as financial gain is replacing public purpose, in determining the actions of both universities and individuals.

### Codes of Ethics

Best practices at other universities

Institutional codes of ethics

Note: Many of these date from the early 1970s when the concerns were student takeovers and such

Later they evolved into “speech codes”

Faculty (AAUP-1987)

Faculty handbooks, etc.

Business practices (NACUBO-1993), etc.

Accounting practices:

Stimulated by Sarbanes-Oxley (and NACUBO)

Threats of government action at the federal or state level

Possibility of using accreditation as a more stringent “accountability” standard

California, Maryland, and New York have proposed legislation that would require nonprofit groups to follow the same rules of Sarbanes-Oxley.

NACUBO suggesting that presidents and CFOs adopt a code of ethics for their work and consider methods for enforcing it. These officers should be prepared to certify the accuracy and completeness of their institution’s financial statements and show that they have evaluated their controls and procedures for financial disclosures.

Specific codes for business activities/purchasing

Codes for licensees (anti-sweatshop—UM, Notre Dame, Duke)

Conflict of interest

Not only for business but for research (NSF, NIH)

Note some exempt coaches

Student codes (honor codes, disciplinary policies)

Trustee codes

An increasing number of these, perhaps stimulated by  
Sarbanes Oxley (NACUBO guidelines)

State policies

Some universities such as Wisconsin and Washington  
fall under state codes

Note: Many groups were opposed to codes, arguing that civil  
law covered their behavior, although these do not  
recognize the unique status of the university

### Guidelines for codes

The privileged place of universities demands higher standards

Values are more important than laws.

There is a significant difference between legal behavior on  
the one hand and ethical behavior on the other. The law provides  
very little guidance as to what is or is not ethical behavior.

Optics are frequently more important than reality

Are conflicts of interest to be managed or avoided?

Important to link to academic values such as academic freedom, scholarly  
integrity, rigorous inquiry, and openness.

### Process is All Important

Note that key thrust of Sarbanes-Oxley was on process and  
transparency. Boards have to be not only fiscally accountable,  
but also able to prove it!

Some universities are adopting such reforms (Drexel,  
U Texas) as best practices.



There are also calls to strengthen financial controls at colleges by credit-rating agencies, accounting and law firms, and private foundations and government.

But while there are challenges, there may also be important opportunities for universities:

### Challenge #1: The Academic "Profession"

The professoriate claims to be a profession, much like law, medicine, and engineering. Members of such learned profession agree to maintain high standards of performance, to restrain self-interest, and to promote ideals of public service in the areas of responsibility. In return, society grants them substantial autonomy to regulate themselves.

Many of the recent scandals in business practices resulted from professionals such as accountants, lawyers, bankers, security analysts, and corporate officers allowing self-interest and greed to trump integrity. Rather than acting as a constraint against excess, they facilitated unrestrained self-interest.

As a result, these professions are increasingly losing their autonomy, as government steps in to provide through laws such as Sarbanes-Oxley strict regulations for professional practice largely because the professions have lost the sense of public trust.

There is an important lesson here for higher education. Like other professions, the professoriate is granted the autonomy of "academic freedom" as long as it are able to demonstrate that it has the capacity to set and enforce standards for ethical behavior. Yet, in all candor, it has failed to do so. Ethical codes such as those adopted by the American Association of University Professors and various disciplinary societies are largely vague and toothless. The evidence suggests that most faculty fail to set high standards for the behavior of their colleagues. They tend to tolerate the most blatant misbehavior of colleagues. failing to discipline

their colleagues for inappropriate behavior and to include the ethical dimension of faculty and professional life in graduate education. They all too frequently set bad examples to students through inattention to teaching, exploiting their relationships with students, and occasionally blatant conflict of interest.

As a result of benign neglect of professional ethics, the professoriate could find itself facing the intrusion of regulation and constraint now characterizing the legal, accounting, and business professions should the public lose confidence that it is upholding its end of the social contract that provides academic freedom and autonomy.

Trustees need to act to hold the professoriate more accountable for maintaining its end of the social compact. They should require orientation programs for new faculty and include substantial material on ethics and values in graduate education (key to producing the next generation of professors).

### Challenge #2: Institutional Leadership

An ancient Chinese proverb states: “The way to do is to be.” Clearly moral leadership begins at the level of the institution and its leadership (both governing board and president).

Both as an educator and the leader of a large, diverse learning community, a university president is occasionally called upon to provide a certain degree of moral leadership. Of course, today’s presidents no longer are obliged to teach a capstone course in moral philosophy as they once were in many 19<sup>th</sup> Century American colleges. But they do have both the opportunity and the obligation to provide leadership on an array of value-related issues on the campus, ranging from the protection of academic values to human rights and dignity to institutional integrity.

Certainly this is a natural and common role of presidents in areas related to student behavior, from substance abuse to vandalism of the campus to sexual or

racial harassment. Although the incidents are less frequent, the conduct of faculty and staff also sometimes merits both decisive action and perhaps even visible comment to protect the integrity of the institution.

However, beyond such obvious examples calling for moral leadership, there are a host of campus activities that provide at least the opportunity if not occasionally the imperative for presidential action that fall into gray areas, whether because of their ambiguity or the risk they pose. One clear example is human rights, at least as it applies to racial diversity or gay rights. To be sure, most university presidents accept the fundamental values underlying such causes, of equal opportunity and protection from discrimination. Unfortunately, and particularly in public universities, an increasingly conservative society (not to mention the strongly held views of many conservative political leaders in national, state, and university governance) pose risk to strong moral leadership. Little wonder that many public university presidents decide to keep their powder dry and let others carry the water.

Such leadership is far better tolerated in private institutions where governing boards are more inclined to serve as enlightened stewards for the institution rather than as political overseers more characteristic of public university governing boards. USC has certain advantages here with a strong president and a strong governing board!

### Challenge #3: And a Possible Opportunity

Somewhat more abstract yet of comparable importance to institutional integrity is an understanding and acceptance of those key values and traditions that undergird an institution. Some of these are fundamental academic values such as academic freedom, scholarly integrity, and openness. Others trace back to the institutional saga, the history and culture, of the particular institution. But unfortunately all such discussion of such values seem to be missing in action from the campus these days.

Yet the many communities of the multiversity respond to different values and different moral voices. The social disruptions of the student movements of the 1960s and 1970s, leading to not only the rejection of *in loco parentis* but as well the traditional values of the university, perceived as part of the oppressive establishment, were also contributors to this loss of moral cohesiveness. As universities accepted less moral responsibility for the lives of students, they severed the linkages to their tradition, heritage, and values.

Similarly, the entrepreneurial nature of the contemporary university, in which individual faculty and staff are increasingly responsible for generating the resources to support their activities from myriad sources, has undermined not only the sense of loyalty to the institution, but any common agreement and acceptance of fundamental values.

As a consequence today there is a reluctance to discuss fundamental values on the campus, to encourage students to guide their lives according to some higher sense of meaning. Presidential and trustee leadership can fill some of the gap created by faculty reluctance to discuss moral values with students. But this is a large task in a postmodernist culture where relativism all too frequently dominates intellectual debates.

But today's climate of increasing public scrutiny and accountability may present an opportunity. It is easier to make the case that it is time for universities to take strong action to stimulate a dialog concerning and a commitment to embracing fundamental values and ethics into their activities—certainly their practices, but perhaps even more so their fundamental activities of teaching and scholarship.

And what better way to do this than to:

1. Adopt clearly stated and broadly accepted codes of ethical conduct, drawn from both the best traditions of academic learning and the broader obligations of a social institution with strong public purpose.

2. Design and execute a process aimed at making certain that these codes guide the behavior of the university, both as an institution and as a community.
3. And build an ongoing educational process for the entire community—students, faculty, staff, administrators, and trustees—that builds awareness and understanding of the importance of ethical behavior and institutional integrity.