

Responding to academic dishonesty in universities: a restorative justice approach

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The implementation of restorative approaches in schools has been commonly seen in elementary and high schools, yet the development of restorative approaches in post-secondary institutions has not been fully explored. In respect to university education, a more restorative approach to student discipline can be a proactive educational response mediating the response of student discipline boards to instances of student wrongdoing. Existing practices are explored, and critiqued from a restorative justice perspective. The rationale behind moving to a restorative response is outlined, and the experiences of student discipline boards that currently employ restorative approaches are assessed to determine how effective this paradigm shift could be. How university responses to student misconduct might function if aspects of the academic environment were built on restorative values and principles is explored, in particular, through looking at the benefits accruing to the development of restorative practices in the classroom, in distance education and for students who experience language difficulties.

Keywords: restorative justice; academic integrity; student misconduct; student discipline boards; responsive regulation; reintegration

Introduction

The restorative justice movement has become a rapidly growing phenomenon that initially grew out of concerns within the criminal justice system; however, it has become increasingly prevalent in responding to harm and wrongdoing in schools, workplaces and other social environments with great success. As a broad goal, restorative justice aims to transform the way contemporary societies and communities view and respond to conflict (Johnstone & Van Ness, 2007). The role of schools in promoting restorative justice is central to developing a more restorative society as a whole (Morrison, 2007a; Walgrave, 2008). Many educational institutions have begun to adopt restorative justice approaches in dealing with harm and misbehavior. This idea developed in response to an increase in school bullying, violence and the use of punishment as a dominant form of discipline (Morrison, 2007a). While the implementation of restorative approaches in schools has been commonly seen in elementary and high schools, the development of restorative approaches in post-secondary institutions has yet to be fully explored. Many universities and colleges have been stagnant with regard to researching, experimenting and adopting restorative justice approaches (Strong, 2006). In respect to post-secondary education, a more restorative approach to student discipline can be a proactive educational response.

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A paradigm shift within criminal justice has been growing rapidly; however, other domains have been slower in adopting this approach. Many educational institutions have recently begun to adopt restorative justice approaches in dealing with harm and misbehavior; yet this has predominantly been employed in elementary and high schools. The role of discipline within education has been a point of concern for parents, teachers and students alike. The adversarial and punitive disciplinary practices employed in many college and university campuses have been criticized for returning to traditional approaches (Lowery & Dannells, 2004). In this regard, many educational institutions have mirrored the criminal justice system in their response to inappropriate behavior. The use of punitive sanctions in response to student misconduct has been the norm. Furthermore, it has been used with the apparent goal of attaining deterrence.

Student discipline boards

There is remarkable consistency to be found among the processes applied by student discipline boards in universities. They are similar to each other in regard to their organization, structure and approaches to discipline matters. In some cases, the board directly imposes sanctions on a student. In other institutions, they are advisory in nature, being responsible for the provision of advice to a university official responsible for student conduct matters. Some universities allocate the responsibility for student discipline directly to the university president. This power is usually exercised on the advice of a student discipline board.

Each university has developed its own policy governing student discipline boards. These policies identify the key stakeholders in student discipline matters. They also outline the process under which these boards operate. Many institutions have established their responsible board as an independent administrative tribunal governed by the rules of natural justice and the doctrine of fairness. These are administrative law concepts designed to ensure a particular procedure is followed by the tribunals. Among the various requirements of the fairness and natural justice concepts are procedural elements historically associated with a formal trial process. For example, natural justice has historically required tribunals to comply with the rules “*audi alteram partem*” – that a person must know the case being made against him/her and be given an opportunity to answer it; and “*nemo iudex in sua causa debet esse*” – the rule against bias (Jones & de Villars, 1985, p. 149).

Courts have held that the principles of natural justice require administrative decision-makers to conform to a court-like process before rendering decisions. Hearings closely resemble the “trial process” familiar to the legal profession (Evans, Janisch, Mullan & Risk, 1980, p. 27). That is, administrative law seeks to ensure that those whose rights are affected by the decisions of administrative tribunals are given notice of hearings, guaranteed an oral, often public hearing, have a right to be represented, are granted disclosure of the case against them, are able to introduce evidence, call witnesses and cross examine those testifying against them, have access to reasons for decision, and an opportunity to appeal an adverse outcome (Evans et al., 1980). The process assumes the value of an adversarial hearing in which impartial adjudicators are exposed to representations from those asserting a claim and those seeking a contrary finding. Decision-making is formal, reflecting a top-down projection of authority on those accused of wrongdoing who have minimal involvement in this process.

Policies governing the membership of university discipline boards attempt to reflect various elements of the university community. However, the structure of the board is frequently biased in favor of officials working within the university environment. Student discipline boards can be composed of faculty, staff and students. In actuality, many boards are dominated by faculty members.

Discipline boards usually take a non-advocacy role. They attempt to act as impartial arbiters of disputes between the student and the university. Panel chairs usually take an active role in running each discipline hearing. The chair will often call on the various parties to present their case, directing who is entitled to speak, and subjecting them to questions during their presentation of evidence. The hearing is typically a highly structured event that results in a decision being rendered by the board rather than being the product of active involvement by the affected parties. Past precedents usually play a pivotal role in the determination of penalty outcomes.

The policy of a university typically sets out the available penalty options. They may impose penalties ranging from minor to more onerous outcomes, such as failure in a course, de-registration, forfeiture of university awards or financial assistance, suspension or permanent suspension from the institution, or even revocation of a degree. While these policies suggest considerable flexibility in penalty assessment, in reality, a large number of cases result in exclusionary penalties such as failure in a course, suspension and denial of admission to a university or one of its programs.

A wide range of issues are addressed by student discipline boards. They are usually responsible for dealing with allegations of various forms of wrongdoing including causing harm, disruption, destruction or damage to property, theft, fraud and other similar actions carried out on campus. Additionally, they deal with cheating and plagiarism, impersonating other students, falsifying records, offenses against the work of others, mistreatment of university books and misuse of technology. The university's policies often mandate that serious and repeat examples of these matters must come before a student discipline board.

The process applied by a student discipline board usually attempts to provide an impartial, but relatively formal forum. Cases are often referred to the board by department chairs and directors if they are seeking an elevated penalty beyond their authority. On academic dishonesty matters, department heads may be limited in the punishment they may impose, being restricted from imposing penalties beyond awarding a failing grade in a course. Penalty assessments for multiple acts of dishonesty are frequently encountered.

Discipline hearings usually operate quite formally. Students may often be accompanied by a support person (often the university ombudsperson or legal counsel), but they frequently appear on their own. At the hearings, determinations of fact are made through the production of witnesses who provide oral testimony, and the board reviews documentation submitted by the parties. Subsequent to a discipline hearing, all of the involved parties usually receive a copy of the board's written findings of fact, reasons for decision, and recommendation on penalty with an accompanying rationale.

Several key issues of concern pertaining to the current practices of typical discipline boards can be identified. These boards need to put greater energy into promoting positive approaches/alternatives rather than routinely resorting to punitive outcomes. Boards should make efforts to minimize the adversarial nature of the proceedings, particularly given the power imbalance that appears to frequently prevail in the hearings. Students are often unrepresented, lack a support person, and are faced off against

an opposing adversary who is usually much older and better versed in the ways of university decision-making. The panel is also usually dominated by university representatives, with a token student member often being required to maintain the appearance of impartiality. Boards should expend greater energy looking for penalty alternatives, and seek ways to promote student accountability than they usually do. Additionally, boards should attempt to render decisions that minimize alienation and isolation, which are the adverse effects of suspending and expelling students. Exclusionary penalties have been the normal methods of responding to student wrongdoing.

Contemporary practices in matters pertaining to university student discipline have been very legalistic and adversarial in nature. In fact, university student discipline boards are reminiscent of our traditional criminal justice system. That is, there is an overemphasis on “crime control” through the use of sanctions. This continuum of sanctions is still heavily defined by punishment, exclusion and outcasting (Karp, 2004). The overreliance on suspensions and expulsions are elements of a retributive framework that often produce more adverse effects than the ones initially intended. Furthermore, the use of sanctions employed in many colleges and universities is not always in compliance with institutional values and goals.

A recurring problem in colleges and universities is deciding how best to respond to widespread cheating and plagiarism. Traditional student discipline boards appear to operate on an assumption that academic misconduct can best be controlled through establishing deterrent penalties. A punitive response is assumed to dissuade offending students and others from engaging in future acts of cheating and plagiarism. However, if this were the case, one would assume there would be very low levels of academic misconduct in these institutions. McCabe, Butterfield and Trevino (2004) found that 15% of college students reported having cheated on exams and 40% reported having engaged in plagiarism. These numbers reveal self-awareness of wrongdoing, yet the absence of a desired deterrent effect. It appears clear that the desired behavioral impact of punitive sanctioning is not being obtained. A restorative alternative may provide greater promise of achieving lower levels of student wrongdoing.

Student misconduct involves a set of complex and inter-related issues that deserve careful examination and reasonable recommendations (Dannells, 1997; Karp, 2004; Karp & Conrad, 2005). Employing a “one size fits all” approach to student discipline can have detrimental consequences, as we have seen with the criminal justice system. “The overarching issue facing [university student discipline boards] is the challenge of balancing the legal and developmental concerns inherent in contemporary practice” (Lowery & Dannells, 2004, p. 19). This task requires university student discipline boards to aid in the development and learning of students while ensuring that due process is also provided (Gehring, as cited in Karp & Allena, 2004).

A restorative approach

As a way forward, many have advanced the idea of restorative justice as the best approach to university student discipline. Karp (2004), argues that restorative justice is particularly well suited to institutes of higher learning “because of their democratic and egalitarian ethos and educational mission” (p. 5). That is, institutes of higher learning need to promote positive ideals of respect, tolerance and understanding, and must actively engage those they seek to regulate. Dannells (1997) argues that colleges and universities must actively and positively embrace their responsibility to encourage the building of moral and ethical campus communities. In light of the teachings of

restorative justice, one key element is the importance of community. However, in a large, diverse environment, such as a college or university campus, the idea of community is often not felt. The social ties that bond a traditional community are simply not reinforced. As a result, some colleges and universities have opted to approach student discipline in a manner that reflects restorative values and principles.

In taking a more restorative approach to student discipline, institutes of higher learning must take a proactive educational response. Braithwaite's (2002) notion of responsive regulation argues that institutions need to be responsive to those they seek to regulate. That is, our responses need to properly reflect our goals. Furthermore, there needs to be balance between individual and institutional goals. Often, these two do not coincide, where one is deemed more powerful and important than the other. A university student discipline board that operates with these preconceived notions cannot truly achieve a positive outcome. It is important to note that this paradigm shift towards a more restorative approach does not imply a complete abolition of the existing practices and system that have been employed. Instead, it implies a progressive and pragmatic change. Karp (2004) argues that, while the use of suspensions and expulsions must be retained, their use should be reduced. In cases pertaining to cheating and plagiarism, many colleges and universities automatically impose a failing mark on the examination/assignment, and often professors may impose a failing grade in the course. Furthermore, at times, professors may seek an elevated penalty such as suspension, or in extreme cases expulsion.

While discipline in educational institutions is often compared with the criminal justice system, this is primarily based on the use of punishment. When we remove a person from society and subsequently imprison them, it is to ensure public safety. Similarly, when we remove students from a university, it should be considered in that same vein as necessary if they pose a threat to the well-being of others in the campus community. If this is not the case, then removing a student from the university campus without effectively dealing with the issue will displace the problem. Furthermore, when this student returns, s/he is likely to feel alienated.

Restorative justice values promote inclusivity, engagement and active citizenship, which are all fundamental principles of any democratic society. In doing so, we recognize the need for a collaborative effort. As we move towards a more restorative approach, the institutional goal needs to shift from punishment to restoration and reintegration through the development of personal responsibility and accountability. "This burden of responsibility is shifted from the college to the student" (Karp, 2004, p. 10). In respect to student discipline, students need to be given the chance to understand the error of their ways by identifying how their actions affected others and the community, taking responsibility for their actions and repairing the harm.

While many colleges and universities have yet to adopt restorative approaches to student discipline, some have been more responsive to this change. Many institutions have begun to question the existing methods used in conflict resolution due to their ineffectiveness. Dannells (1997) and Warters (2004) argue that many disputes that arise in campus communities may be resolved more successfully through mediation as opposed to the traditional, adversarial system. Some colleges have, in fact, made an important first step by changing the name of student discipline boards to integrity boards. The term "student discipline board" is antithetical to the development of a restorative framework in the university environment. The term "discipline" is too easily associated with punitive responses. The symbolic nature of the change to "integrity board" not only implies a different process, but a different outcome as well.

The mission of an integrity board is inherently different from that of a student discipline board. Karp and Conrad (2005) argue that integrity boards aid students in understanding their behavior and subsequent consequences, identify the harm that results from such behavior, and set out ways in which this harm can be repaired in an effort to reintegrate an offender back into the campus community.

In 2004, upon the recommendation of the discipline policy review committee and with help from the Center for Peacemaking and Conflict Studies, Fresno Pacific University implemented a community-based mediation process as their primary approach to student misconduct. In 2005, they also developed a new student discipline policy they call "Restorative Discipline" (Parker, 2005). "One significant observation is that more conflicts and misbehaviours are being addressed at the informal level through direct discussion, student led mediation, and resident director led mediation" (Claassen & Abebe, 2007, p. 5). Fresno Pacific University in California, reported 19 formal violation reports filed in the 2005–2006 school year. Of those, 18 were resolved in the Community Justice Conference (a form of mediation) process. Only one case proceeded to the Student Judicial Board.

Skidmore College in Saratoga Springs, New York has employed restorative principles for the past several years in its Integrity Board that deals with student misconduct matters (Karp & Conrad, 2005). Research conducted by Karp and Conrad (2005), found that between 2001 and 2003 a 10.5% recidivism rate of students being required to attend before a Board for a second time prevailed (p. 329). Unfortunately, they do not provide information regarding the recidivism rate for students appearing before the Board prior to the adoption of restorative principles. Since multiple changes were made to the Board's overall policy for dealing with students when a restorative approach was adopted, the authors acknowledge that this makes comparisons to prior recidivism problematic from a methodological standpoint. Data are clearly lacking to show whether the number of violations of the student conduct code was affected by the move to a restorative approach. Despite this, Karp and Conrad indicate that the alcohol- and drug-related incidents coming before the Integrity Board appear to have dramatically decreased in number during recent years.

A unified approach

The key to the successful reform of the student misconduct process is to ensure restorative justice values and principles permeate throughout the university. Applying a restorative approach to the conduct of board hearings alone, without ensuring that other aspects of university life embrace the values of restorative justice, will have minimal effect. Most cases of student misconduct do not make their way to a board hearing; they are resolved by the professor or department head less formally. The processes applied at these stages should also embrace the values of restorative justice. A broader institutional approach that supports restorative practices could provide a comprehensive framework that would promote a culture of integrity (Morrison, 2007b).

Circles in the classroom

The traditional method of dealing with a substantiated instance of cheating or plagiarism in a university class involves the student being called in to meet with the course instructor. At this meeting, the facts of the case are usually discussed and the student is informed of the consequences. The next steps usually involve the exercise of some

discretion by the instructor. The student may be asked to do some remedial work, a penalty may be imposed, the matter may be referred to a department chair for further attention, or the matter may be referred to a subsequent disciplinary authority. In many cases, forms documenting the incident must be completed and filed with the department or a central registrar's office. As can be seen, this process is very much akin to the traditional dispute resolution process employed in the adversarial justice context.

A restorative approach would take a dramatically different approach to these cases. Incidents of cheating and plagiarism would be resolved within the academic community in which they occur. Students would be made aware from the outset of the course that academic dishonesty will be addressed in a restorative context. Ideally, the incident would be brought before the class in a circle process. The circumstances would be laid out and the students from the class, who make up the immediate community of the wrongdoer, would each have an opportunity to express their feelings about the incident. Within this environment, the parties would have the opportunity to discuss how the event has affected them and what can be done to move forward. The experience should not be one of extreme shaming, but rather one in which the student wrongdoer is encouraged to take responsibility for her/his actions and to indicate whether s/he is willing to effect changes for the future that will ensure such incidents do not recur. The professor, acting as the circle facilitator, will ensure the matter is properly addressed, order and dignity is maintained, and ensure that a positive resolution occurs whereby the student is encouraged to make amends if necessary, and get the necessary support and feedback to ensure success.

The professor may expand the circle beyond the immediate classroom community to include parties who might offer support or guidance, enhancing the chances of a successful resolution. For example, student resource personnel (writing specialists, etc.) may be brought into the circle to offer positive alternatives. Each department should consider designating an individual faculty member to become a trained facilitator who would be available to be called into the circle by other faculty in that department who are faced with academic misconduct matters.

The circle provides a venue in which the parties can identify what happened, how they feel about it, what needs to be done to undo the harm, and how the matter can be prevented from recurring. It is unlikely that students will see the circle process as an "easy way out" of their wrongdoing. Being confronted by one's peers is undoubtedly a stressful event, one that might carry with it a more enhanced deterrent potential than that provided by traditional processes. Students who dispute the claims made against them by the professor must be able to access a traditional dispute resolution mechanism where determinations of fact can be made. However, even in such cases, where adverse findings are made against a student, a restorative outcome may still be possible if common ground can be established by the parties involved in the dispute.

Unfortunately, many university policy statements do not permit the adoption of a restorative resolution. Amendments to university disciplinary policies are necessary to permit the alternative approach envisioned here.

Distance education courses

As implicit in its name, distance education courses are designed to accommodate the hectic life of a student. Students are given an opportunity to work at their own pace, outside of a brick and mortar classroom setting. This deviation from traditional approaches to education has been met with widespread acceptance from students,

educators, administrators and parents alike. While many students find this type of learning useful, there are inherent dangers to this method. At many universities, student misconduct deriving from distance education courses is an evolving problem. The distance education format lends itself to the potential for widespread plagiarism.

This growing trend of student misconduct has puzzled educators in effectively addressing this problem. The natural response from universities has been the deterrence approach. Many still assert that a strict, punitive, disciplinary course of action is just and fair, believing that the severity of the punishment will deter students from engaging in wrongful behavior. This is evident in many university policies where the severity of the wrongdoing determines the punishment allocated. However, lessons from the failures of the criminal justice system teach us that the deterrence approach is not ideal, particularly in the university setting. Student misconduct for distance education courses is currently dealt with in the same manner as on-campus courses. This can be problematic for many distance education students who may have to travel a considerable distance to meet with the professor or attend a disciplinary hearing.

Applying restorative justice practices to distance education courses poses a challenge. Distance education courses are constructed in a unique way, where face-to-face interaction with professors and other students is not required. The classroom setting and environment is completely removed and nonexistent. Students do not usually engage in synchronous online forums with their peers; instead, they are typically required to post their weekly online discussions asynchronously, which can be done at any time. Such courses do not encourage the use of dialog. With students so isolated and disconnected from the university, how do we effectively build community? How do we define community in a virtual setting? Students can theoretically be anywhere in the world and take a distance education course. How do we deal with any transgressions occurring from great distances?

Building a restorative community for the distance education environment may be accomplished online using the values and principles of restorative justice. This involves a number of elements. In order to attain the goals of restoration, efforts must be expended to achieve dialog and interaction without face-to-face meetings. Compromises will necessarily occur when compared with the proposed use of a circle in the classroom context. For distance education students, there is a need to develop a community as a first step. This is perhaps best achieved through the use of synchronous online programs such as eLive. Students enrolled in a course may be required to meet online at pre-designated dates and times. During these online encounters, exchanges between a professor and students can unfold. Through these online meetings, student exchanges will occur. When wrongdoing arises, academic misconduct may be taken to the students enrolled in the course, using the real-time computer programs, in what may be referred to as a "cyber-circle". At the next scheduled online meeting of the students and professor, the matter may be raised and discussed in the same way it could be raised in the classroom context. Parties would be free to voluntarily engage in discussion about what happened, how they feel as a result, how the conflict can best be resolved and actions that might aid in preventing future wrongdoing within the cyber community.

English as a second language students

Experience has shown that many of the students who are found to have engaged in acts of plagiarism or cheating are students whose native language is not that being

used at the teaching institution. Many English-speaking universities now attract significant numbers of students from overseas. Some of these students may find they “experience difficulty avoiding plagiarism” (Christensen Hughes & McCabe, 2006). Some international students struggle with the English language in their studies. Accordingly, it is not unexpected that some students who are grappling with language difficulties will find themselves looking for ways to achieve success in their courses that minimize the language barrier. Cutting and pasting from various sources on the internet, from hard copy books or from other students’ past papers may appear to be a much easier way of meeting the word count of an assignment than attempting to construct prose in a language that is foreign to them. Inappropriate copying of sentence structures, expressions or phrasing may be the result (Myers, 1998). Copying off an exam of a student sitting nearby is a tempting way of dealing with a situation where the student does not understand what is being asked of them.

Students who do not possess a strong command of the language of instruction are bound to experience a wide range of problems, and academic dishonesty is regrettably one of them. A punitive response cannot be expected to address the core of this type of problem. A remedial approach in which the student is required to take additional language training before undertaking further course work in a language foreign to them is an obvious first step. Unfortunately, many universities dealing with these cases attempt to resolve them through issuing suspensions. Students who are suspended from a university are often unable to access the language training resources available at the facility. As a consequence, they may serve their period of suspension only to return to the university with the same shortcoming they had when the original wrongdoing occurred; reoffending in such cases is not unexpected. Any university imposing a suspension penalty on an English as a second language student should make an exception to the conditions of suspension to permit the student to access necessary language training where the student agrees to this process.

Students studying at a university in a country that is foreign to them may experience intense isolation and even a state of anomie. Where the language of instruction is foreign, these feelings are likely to be even more intense. In such circumstances, it is not unexpected that students will find innovative ways to achieve academic success (Christensen Hughes & McCabe, 2006). A satisfactory resolution to this problem must address the roots of the problem. This can be completed in a number of ways. First, universities must be careful to ensure the admission standards for non-native English speakers are sufficiently rigorous that those meeting the minimum admission criteria can succeed in their chosen program. Where necessary, an elevated test score should be required. The loss of high out-of-country tuition fees is not an acceptable rationale for admitting students who are doomed to fail. Second, for those students who are admitted, there must be sufficient resources allocated to ensure their success. This must occur in a number of ways. Students must be made to feel fully integrated into the university community. They must also be given access to resources that will aid in their success. Help must be readily available for language improvement, developing test taking skills, and developing essay writing skills. Third, universities should ensure their academic discipline policies and processes are sensitive to the situation of foreign students. This requires the adoption of restorative processes to deal with situations of academic misconduct where the student admits responsibility and expresses a genuine desire to change the inappropriate behavior.

Conclusion

Institutions of higher learning are thought to possess qualities that are indicative of a more advanced culture. While this is true in an academic sense, it fundamentally lags behind in respect to the non-academic world. Karp (2005), argues that colleges are behind the times, paling in comparison to even the criminal justice system, where restorative justice has been embraced. One of the most fundamental concerns faced by many post-secondary institutions is how to effectively deal with student misconduct and discipline. While the traditional model has been adversarial in nature, focusing on the use of punishment, there are inherent weaknesses and limitations to this approach. If this approach was successful within the criminal justice system, then we could infer that this approach might be effective within educational domains as well. However, as we know, this is not the case.

“The importance of building more caring and collaborative communities of learning on our campuses has been a consistent theme in the literature on higher education for almost a decade” (Dannells, 1997, p. 1). However, the implementation of restorative justice in schools has predominately been seen in elementary and high schools. Further research on restorative justice and higher education still needs to be explored. Fresno Pacific University and Skidmore College provide examples of how restorative approaches to discipline can be an effective, proactive educational response.

For restorative justice to be effective in theory and practice, institutional values and goals need to coincide with individual values and goals. As a culture that adheres to the ideas of respect, tolerance and understanding, campus communities need to foster and cultivate an environment where this can exist. With individual growth and development comes institutional growth and development, where a unified approach that demonstrates honesty, integrity and responsibility become mutually reinforcing.

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