

Confronting Cheating: A Legal Primer and Tool Kit

Based on a Magna Online Seminar titled “Cheating: A Legal Primer Toolkit for Faculty and Administrators” presented by Debra Moon, JD, and Rob Jenkins, MA

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A Magna Publications White Paper

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ABOUT THIS WHITE PAPER

A cheating epidemic has descended upon colleges and universities, and it poses a danger to the health of your school.

Cheating strikes at the core of your school's integrity.

It creates an unethical environment among your students and ultimately diminishes the quality and reputation of your institution.

Why do you need to take action sooner than later?

- **Technology is making cheating easier than ever before.**

New electronic tools and techniques have made cheating too convenient for students and too difficult for faculty to monitor.

- **Some students are more interested in a diploma than an education.**

For many students, the pursuit of knowledge has taken a backseat to the pursuit of a big salary. A diploma can be the ticket to a high-paying job, and many will take the easiest route to get it.

- **Legal issues are causing confusion and inaction.**

Administrators are wary of a legal misstep whenever a case of cheating arises. Is prosecuting a cheating case worth a lawsuit in return? If you're not prepared, your school faces that possibility.

This white paper is based on an online seminar by:



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INTRODUCTION

WHAT WOULD YOU DO IN THIS SITUATION?

You have just been appointed as the chair of the newly created academic integrity force on your campus. You are asked by your president to develop a strategy to change the culture of your campus from a culture of cheating to a culture of integrity. Far from being just an effort to catch a few cheaters, this is a challenge to create a culture in which cheating is no longer accepted as the norm by a majority of students. Would you...

- A. Hire a consultant on academic integrity?
- B. Start by researching best practices of other colleges and evaluate what best fits your college culture?
- C. Start reading *The Chronicle of Higher Education* for other job opportunities?

Your comfort with this situation tells a lot about your academic integrity strategies skill set.

Consider the following questions:

1. Do you know the top way to create a culture of academic integrity on campus?
2. Do you have a cohesive package for academic integrity issues that includes faculty and student tutorials?
3. Do you have easy-to-understand documents that help students understand what constitutes cheating?
4. Do you know strategies faculty can use in their classrooms to deter cheating before the exam?
5. Do you know strategies faculty can use to deter cheating during the exam?
6. Do you know how to protect yourself from defamation and invasion of privacy charges that evolve from commonly used confrontation methods?
7. Do you have a clear strategy to handle the lawyers, preachers, and mamas who want to enter the hearing process?
8. Do you understand how to handle grading and course completion while in mid-investigation?
9. Do you know how to protect yourself from the two worst due process mistakes?
10. Do you understand the types of evidence needed to prove a claim successfully?

The challenge for those confronting academic integrity issues is to shine a light on the subject. Academic integrity should be visible to students—something they can see, something that is a tangible part of the campus. Anti-cheating strategies should also be highly visible.

Shining a light on academic integrity means that the subject is not confined to the background. It must become an integral part of your campus culture. This is because

cheating isn't what it once was—students looking over each other's shoulder or getting help from a boyfriend or girlfriend. In addition to these low-tech strategies, cheating has gone high-tech. Students now use a variety of electronic devices to accomplish the same illicit behavior. What was once unauthorized help from a frat brother might today be texts from a friend across the country, and what was once a "library" of term papers to crib from has become an Internet-based industry. How we handle the issue on our college campuses needs to keep up with the challenges of modern technology as well as the pressure that students feel to continually succeed at all costs.

AN EPIDEMIC OF CHEATING

Cheating has entered the "Space Age."

Sure, low-tech cheating methods still exist. Students still help one another out, they still look at one another's exam papers, and they still find ways to crib notes onto ball caps and water bottles.

However, today's cheating often involves electronic devices that make academic dishonesty much easier, such as smart phones, computers, and PDAs. Students can text one another answers faster than faculty eyes can keep up, and the ubiquity of small-scale cameras means that students can gain and share copies of exams with other students.

Even more disturbing is the culture of cheating, with many surveys reporting that students now believe cheating is actually acceptable. According to some reports, nearly two-thirds of undergraduates report cheating at some time.

There is a culture of rationalization around cheating. Students often believe that they need to cheat in order to stay competitive or simply to avoid losing ground. Have you heard these rationales?

- "I need good grades to keep my scholarship."
- "My teacher is ineffective; I need to cheat."
- "Everyone does it; it puts me at a disadvantage if I don't."

These and many others are commonly heard, and they indicate that students feel pressure to cheat to perform well in class. However, there are ways to create a culture that discourages cheating and to deal with the potential of cheating when it is most likely to occur.

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CHAPTER 1: FIVE WAYS TO STOP CHEATING FROM DAY ONE

To proactively address cheating on your campus, consider this five-point strategy to build a wall of prevention against cheating on your campus and to bring academic integrity to the forefront:

1. Honor Code
2. Orientations
3. Tutorials
4. PR Campaigns
5. Classroom Strategies

HONOR CODES

To create a culture of academic integrity, consider the foundation of an honor code. Creating an honor code at colleges and universities has become a growing trend across the United States. While many people think of honor codes in the very traditional sense, such as a code that requires students to turn in anyone suspected of cheating and that imposes penalties for students who do not do so, in this case, the approach is more of an “honor code light.” This is fundamentally the establishment of a peer culture that makes it socially unacceptable for students to cheat. It becomes part of the vision of the college and of the ongoing discussion that the community conducts.

There are several good resources available to serve as models and guidelines when constructing an honor code:

- Clemson University Center for Academic Integrity: www.academicintegrity.org/
- Gary Pavela’s Model Code of Academic Integrity including Fundamentals of Academic Integrity: www.academicintegrity.org/educational_resources/ai_model.php

ORIENTATIONS

The second major way to reinforce the values of academic integrity is through orientations. All institutions have orientations of some type, some required and some not. These are excellent opportunities for the university to access the students face-to-face, often at one of their first points of engagement with the institution.

There are several positive models of orientations:

- ***Student-to-Student Orientation:***
Consider having students orient their new colleagues to the culture of academic honesty on the campus. Rather than having administrators and faculty speak to the students, draft students who can engage in a dialogue with other students about the climate and about techniques for maintaining academic honesty.

- ***Georgetown University Sanction Reduction Program:***

A sanction reduction program allows students who have been caught cheating to talk to other students about the subject and share their experiences. These students tend to make great advocates for a culture of academic honesty.

Georgetown University describes its program as:

“Part of the Undergraduate Honor Council, the Sanction Reduction Board guides students, found ‘in violation’ of the Honor System, through the Sanction Reduction Process to help them learn from their violations. Individual board members work one-on-one with students to help them develop plans, which allow them to reflect on and grow from their violations. A student who successfully completes the Sanction Reduction Process will have his/her sanction reduced two years after the end of the semester in which he/she violated the Honor System.”

- ***Emphasizing the Break with High School:***

As mentioned, high school is often a place where many students cheat, and it is where some students learn that the practice is culturally acceptable. By emphasizing a break with high school in the orientation, there is an opportunity for students to embrace new cultural expectations.

- ***Notre Dame Orientation Prior to Registration:***

Notre Dame University has a very interesting program to reduce academic dishonesty. Students are not permitted to register for classes unless they have taken an online orientation and demonstrated familiarity with it.

More information is available at:

<http://ocw.nd.edu/university-resources/university-honor-code-tutorial>

- ***University of the South Honors Quiz:***

Sewanee: The University of the South also makes use of an honors quiz before classes begin, reviewing all of the institution’s honor code material. More information is available at: <http://www2.sewanee.edu/sewaneescene/honor>

- ***Video Orientations:***

Another good option to acquaint students with honor codes is videos. The current generation is very comfortable with receiving information visually, and colleges can create their own videos covering the material. Students can also be encouraged to create their own videos, perhaps by taking part in a contest for the best video, through which students are eligible for some sort of prize or incentive. The winner could appear on the college website.

TUTORIALS

Tutorials are another great way to introduce students and faculty on campus to information about honor policies. Some best practices include:

- ***Richard Bland College, College of William and Mary***

This institution has an academic integrity tutorial that is outstanding and can be used for inspiration for many campus academic honesty tutorials. The tool incorporates a quiz that tests on potential cheating situations.

- ***Georgetown University***

This institution has a tool called Scholarly Research and Academic Integrity that spells out what the university considers cheating.

- ***Carnegie Mellon***

This institution uses its tool not as a quiz or tutorial but as a discussion guide. This allows the institution to explore the impact its policies have on academic honesty and the impact that policies and beliefs have on the culture of academic honesty.

PUBLIC RELATIONS CAMPAIGNS

Public relations campaigns can be very helpful in creating a culture of academic honesty, but the important thing to realize is that this is not just an anti-cheating campaign. Instead, the PR campaign needs to emphasize that it aims to create a pro-integrity climate.

The PR campaign is not something that academic and student affairs hands over to the public relations department and asks them to execute, although this professional department can be quite helpful when asked.

Instead, promoting academic honesty takes a community approach. Cheating is everywhere, but it is underground and isn't always visible. Yet, sometimes faculty members feel if they talk too much about cheating in the classroom, they will give their students ideas about potentially successful approaches. This is unlikely to be true. Faculty are unlikely to be telling students anything they don't already know. By acknowledging that methods of cheating do exist, faculty can help students understand what actions violate standards of academic integrity.

One element of a successful academic integrity campaign is the use of a poster campaign. From the first day that students begin to arrive on campus for orientation, they see posters related to academic integrity all over campus as a constant visual reinforcement of the culture of integrity.

Another idea that brings the culture of academic integrity to the forefront is the use of book

covers and bluebook covers that talk about cheating and reinforce the pro-integrity message with the very materials that students will interact with while they are considering issues of academic honesty.

Duke University has two interesting ideas to reinforce a culture of academic integrity. First, it sponsors an essay contest on ethics. Second, it has a team of student ambassadors who talk about ethics and cheating and how to deal with cheating.

DEFINING CHEATING

Another issue surrounding creating a culture of academic integrity is defining cheating in a way that students and faculty can easily understand. This starts with creating documents that define exactly what cheating is; this is important because both faculty members and

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students may be unclear about where the line is drawn. This definition is needed due to changing norms in a climate that increasingly includes electronic cheating.

General information including a lengthy list of examples should be used in policies, tutorials, and organizations. Instructors can reinforce this by being clear in their syllabi about the definitions of cheating, plagiarism, and unacceptable collaboration for each assignment. Specify what actions constitute cheating, and don't be afraid of creating a lengthy list. Keep the information consistent across handbooks, syllabi, policies, tutorials, orientations,

and the like. Teachers should back up the official policy statements with clear, specific guidance in the syllabus, defining cheating, plagiarism, and collaboration issues.

Examples of behavior that might be considered unacceptable:

- Cutting and pasting from Internet articles
- Using cell phones or PDAs to transmit notes or answers
- Writing notes on any surface, including skin
- Not turning in a test
- Falsifying data
- Keeping notes in the bathroom and accessing them during an exam
- Using test information given by a student in a previous class
- Collaboration on assignments unless expressly allowed
- Unclear circling of answers

Additional resources to help define cheating include:

- Virtual Academic Integrity Laboratory: www.umuc.edu/cip/vail/
- "What Is Plagiarism at Indiana University?"
<http://www.indiana.edu/~tedfrick/plagiarism/index2.html>

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CHAPTER 2: FIVE CLASSROOM STRATEGIES TO DETER CHEATING BEFORE THE EXAM

There are five effective strategies for deterring cheating before an exam:

INCLUDE A SYLLABUS STATEMENT

The most basic cheating deterrent is a statement in the syllabus that talks about what the academic policy is at your institution and that reminds students that they are obligated to follow it. A sample syllabus statement:

“As students at Georgia Private College, you are required to uphold academic honesty in all aspects of this course. You are expected to be familiar with the letter and spirit of the Standards of Conduct outlined in the GPC Honor Code.”

TALK ABOUT THE SERIOUSNESS OF CHEATING

However, many faculty make the mistake of stopping at the syllabus statement. If you don’t stand up in front of the room and tell the students that you take cheating seriously and that you will implement the policies against those who cheat, they won’t take it seriously either. Students will follow your lead, so you need to be serious about it and talk about it on the first day of class. One technique that many faculty use successfully is to publish the honor code and have students sign off that they have read the honor code and intend to abide by it.

DO NOT INCLUDE SPECIFIC CONSEQUENCES

Faculty also need to be very careful about putting specific consequences in their syllabus. For example, some will place a statement in their syllabus that if a student cheats, he or she will receive an F for the course. This is unwise. There are often appeal processes built into the university procedures for handling cheating, and automatically failing a student ignores the fact that a student has a right to appeal or the right to have a hearing. Automatically failing the student ignores the student’s due process rights, and it is not even the best penalty for certain types of cheating.

TELL STUDENTS WHAT CONSTITUTES CHEATING

Faculty members also need to be specific about what constitutes academic honesty violations in their classes. For example, be very specific about the collaboration rules on projects. If you want source materials cited in a particular style, that needs to be made clear in the syllabus. Many faculty members attempt to hold their students to standards that have not been made clear, and this lack of clarity often leads to cheating cases being overturned.

ASSIGN CHEATING-RESISTANT ASSIGNMENTS

Assignments that require critical thinking are more difficult to cheat on than are those that require a more simplistic level of analysis. For example, instead of asking students to write a paper about the definition and causes of global warming, which the students can likely copy from or buy on the Internet, consider asking them to state and defend a position on global warming. Or ask them to role-play a certain perspective, such as what they would do as a senator to make sure their state was environmentally friendly.

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CHAPTER 3: IN-CLASS STRATEGIES

There are a number of effective strategies that can be employed in the classroom to decrease the likelihood of cheating. These include:

APPROACHABILITY LESSENS CHEATING

Students often cheat when they are desperate, or when they didn't learn the material in class and don't think they can approach their instructor for help. By being approachable as a faculty member, you make it less likely that students will cheat in class. Make regular announcements about your availability, and do what you can to communicate your openness to students who have questions or need a little extra help.

USE CLASSROOM ASSESSMENT

Faculty often believe they can look out at student faces and tell who is struggling. However, often faculty members really aren't familiar with how their students are doing midway through the class. This is where classroom assessment comes in.

One technique is to ask students regularly, perhaps at the end of every week, to identify anonymously the muddiest point that arose in the class. Ask the students to identify what was not explained well and what could be explained better next week. This allows them to give feedback to the instructor in a nonthreatening fashion while the instructor learns whether the students understand the material.

PROVIDE MULTIPLE CHANCES TO RECEIVE HELP

Most instructors put their office hours on the syllabus, but it is helpful to continue to remind students of instructor accessibility. At the end of each class, remind students of office hours, and post your office location and phone number on the board every day. Let them know that the instructor wants to hear from them when they are having difficulties.

BREAK LARGE ASSIGNMENTS INTO PIECES

It is tempting, particularly on large assignments such as papers, to simply ask students to turn in a finished product at the end of the course. However, while finished papers are readily available from paper mills, it is more difficult to purchase an outline, a first draft, and other intermediate steps. Smaller steps are very difficult to cheat on, and if the instructor compares the intermediate steps to the finished product, it is easy to see if the student did the work independently.

PUT A “REFLECTION PIECE” INTO EVERY ASSIGNMENT

Another strategy for deterring cheating is to include a reflection piece in every assignment. Ask students to reflect on what they have learned, and talk about how they might solve a problem differently or what they think about a particular point in history. By requiring them to give their own personal reflection, they are less likely to cheat.

ADDRESS CULTURAL DIFFERENCES

It is a sensitive topic, but there are some cultures that believe that cheating is acceptable. These cultures might believe that good businesspersons automatically cheat people and that

Acknowledge the breadth of cultures that are represented in the classroom, but emphasize that the class culture and standards are ones of academic honesty.

this is a sign of being savvy, not dishonest. There are cultures where a bribe is considered a standard way of conducting business. Students from these cultures may be sitting in the classroom.

The best way to deal with this is to address it up front. Acknowledge the breadth of cultures that are represented in the classroom, but emphasize that the class culture and standards are ones of academic honesty. Students will recognize that if everyone is held to the same standards, the climate is fair.

USE COMPARE/CONTRAST WRITING ASSIGNMENTS

Another effective method of constructing assignments is to ask students to compare two things or concepts that on their face don't seem very similar. This reinforces critical thinking while it discourages cheating. While it is easy to get a paper on Walt Whitman from the Internet, it is much more difficult to get one that compares Walt Whitman's work to songs by Green Day.

REQUIRE DATA COLLECTION THROUGH PERSONAL INTERVIEWS

Another technique is to require students to collect some data through personal interviews. This kind of information is nearly impossible to cut and paste; students have to sit down with people and record the answers.

ROTATE USE OF ASSIGNMENTS

Rotate assignments in use. Don't use the same assignment from year to year or even in multiple sections. Otherwise, you risk seeing the same assignment come in from multiple students who share living quarters or are in the same fraternity, for example.

REQUIRE MULTIPLE DRAFTS

Require multiple drafts. While it is not necessary to grade every draft, it is important to look at student work. Rough drafts can be used in peer editing groups. Additionally, require students to turn in the rough draft along with the final paper so that you can see the progression of their ideas.

USE DIFFERENT EXAM VERSIONS

One common electronic method of cheating is the theft by students of a copy of the exam, perhaps by taking a photo, and then their sharing it with other students. That can be deterred by using different exam versions. Have multiple exam versions and use them in the same class and among different sections.

READ CHEATING POLICY BEFORE THE TEST

Still another technique to deter cheating is to take the anti-cheating statement included in the syllabus and readdress it before the test. Tell students where they can find the honor code. Bring photocopies into class or project the statement from a PowerPoint slide. Read it aloud.

ENFORCE “ALLOWABLE EXAM MATERIALS”

Make sure that students understand the term “allowable exam materials.” This includes what they are allowed to have on their desks, whether or not they can have their cell phones, and whether cell phones should be confined to backpacks during the exam. Don’t forget to consider water bottles, as many students cheat by writing answers on the bottles.

ALTERNATE SEATING

Finally, require students to alternate seating, leaving empty seats between each person. Feel free to move students around from their normal locations.

Study best practices

Some other resources to consult:

- *Prevent Plagiarism with Creative Assignments* – Truman State University
<http://library.truman.edu/faculty-staff/class-examples.asp>
- *Designing Plagiarism-Resistant Assignments* – Center for Intellectual Property, University of Maryland University College
www.umuc.edu/cip/vail/faculty/designing_assignments/assignments.html

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CHAPTER 4: DETERRING CHEATING DURING THE EXAM

Exam time is prime time for cheating, and professors who remain alert can do much to deter cheating on their tests. Consider these ideas:

BLUEBOOK REDISTRIBUTION

For faculty who use bluebooks for their exams, there is an interesting approach to keep students from bringing bluebooks prepared with notes into the exam. When *the instructor* comes into the class, he or she *should ask all students to put their bluebooks down, and then ask each student to hand his or her bluebook to the next student.* This prevents students from using their own bluebooks.

CELL PHONES OFF DESK

Ask students to keep all cell phones off their desks. There is no reason for students to have a cell phone on their desks during the exam.

MOVE AROUND, KEEP YOUR EYES OPEN, AND LOOK STUDENTS IN THE EYE

It is tempting for a faculty member to work on other things while students take an exam. However, to really deter cheating, the faculty member has to move around. Look students in the eye. This will create discomfort among those contemplating cheating.

PENALTIES FOR CHEATING – THE FACULTY OPTION

What is an appropriate penalty for cheating?

As a faculty member, you set the penalties in your class; this is your option. If you are unsure about what constitutes an appropriate penalty, you can consult with a more experienced faculty member or an administrator.

However, it is good practice to think of your penalties before the situation comes up. The normal range of penalties includes:

- not counting the exam (assigning a zero)
- requiring the student to redo an assignment
- giving an F on the exam
- giving an F in the class.

It is important to identify a range of penalties at the front end of the class, because you need to be able to give an appropriate penalty for the circumstance. For example, you would not fail somebody in a class who misunderstood the collaboration rules when everyone else in the class also misunderstood them, but you might require those who misunderstood to redo a project.

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CHAPTER 5: CONFRONTING CHEATING

Consider the following case:

Looking up during an exam, you see a student repeatedly looking at another student's exam. When your eyes meet his, he appears to be very nervous. Do you...

- A. Say, "Mr. Smith, keep your eyes on your paper"?
- B. Walk up to Mr. Smith and ask him to turn in his paper to you?
- C. Walk around and see approximately where he is on the exam and then ask students to exchange seats?
- D. Ignore it; confronting cheating is not worth the hassle.

While it is tempting to ignore cheating, it is the faculty member's responsibility to address issues of academic honesty. To that end, there are some techniques that allow you to confront cheating in the classroom legally:

- If you notice one pair of shifting eyes, make an announcement to the whole class. This can be as simple as stating, "Everyone, remember to keep your eyes on your paper." Don't single people out, but address the class as a group.
- Move students around if you suspect collaboration. Consider saying something like "Ladies and gentlemen, I'd like you to do me a favor. I would like everyone to space out one seat" or "I would like this side of the room to move to that side; you cannot sit next to the person you are sitting next to now." Again, do this to the entire class or to a larger group of people than just the person you suspect.
- Make a note of where students are on the exam if you suspect them of cheating. Do not take the exam away.
- Discreetly remove and retain any cheating aids. If you see someone who has a crib sheet or a cell phone with unauthorized texts or who is writing on a bottle of water, for example, you may discreetly take away only the cheating aid. Make a note of where the student was on the exam when you confiscated the item. Be very discreet, and don't take the exam away.
- Always allow students to complete an exam. If the student is not cheating, then confiscating the exam will create trouble. Instead, make a note of approximately where the student was on the exam, but do so discreetly. You can later check for similarities between two exams or between the exam and the cheating aid.
- Sometimes, when a student is accused of cheating, the individual can become very angry. This is a normal reaction. So, if a student becomes disruptive, very quietly let the student know that being disruptive is actually a separate offense in addition to cheating.

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CHAPTER 6: AVOIDING DEFAMATION AND INVASION OF PRIVACY ISSUES

Defamation: a false statement that harms a person's reputation. If the statement is published, it is libel; if spoken, it is slander. Most states have retraction statutes under which a defamed person who fails to seek a retraction from the publisher, or who seeks and obtains a retraction, is limited to compensation equal to the actual (or special) damages. (Source: www.nolo.com)

Defamation occurs when you say something untrue about somebody. It hurts somebody else's reputation and it is published. "Publication" in this definition does not necessarily mean publication such as in a newspaper. Publication simply means that a third party other than the accused hears you make the claim.

To avoid defamation, avoid making public accusations, as this can lead to lawsuits. The burden is on your college or university to prove the accusation. Therefore, saying that a student is cheating to anyone but that student is unwise.

To avoid defamation, avoid making public accusations, as this can lead to lawsuits.

However, you may send information to people involved in the case without defamation, and you may speak to someone like a dean who needs to be involved in the case.

Invasion of privacy is another potential lawsuit trigger. Invasion of privacy occurs when you disclose embarrassing facts, whether or not they are true. The

actual tort involved is called publication of private facts, which includes things that someone may not want others to know, like a DUI, participation in a rehab program, or cheating. So, even if you accuse someone of cheating and it turns out it is true, they can still sue you.

Some legal ways to confront cheating include:

- Meet with the student privately.
- Be nonconfrontational.
- Be civil and conciliatory.
- Think about penalties before meeting.
- Allow the student to respond to charges and present evidence.
- Inform the student of the right to a hearing and appeal.
- Remember colleges vary in how they handle a contested charge. Some colleges consider cheating to be an academic offense, some a student affairs offense, some a discipline offense. State laws may also apply in some cases.

If you have a student who is being investigated for cheating, remember the following during the investigation:

- Allow the student to complete the test and stay in class.
- Allow the student to attend class and turn in all other assignments.
- Give an incomplete if the hearing is not done by the end of the semester.

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CHAPTER 7: POLICIES

Most schools tend to have policies that are spread all over. They might be in faculty handbooks, in student handbooks, on the website, or in other places. And often all are different. So, one of the most important tasks is to construct a complete policy and have it in one place. Refer to this every time another document needs a policy on cheating. Faculty can cut and paste this policy into their syllabi, or they can put a link to the policy. Put in built-in review dates for accreditation purposes. Review it regularly to be sure that names of relevant administrators and other changeable data are kept current.

- Combine all separate policies into one master policy.
- Place the policy in the student handbook or someplace accessible to all.
- Have built-in review dates

EVIDENCE

In the best case, a professor accusing a student of cheating will have two different types of evidence. First, there will be an observation: the instructor observed the student cheating. Second, there will be physical proof, like a cheat sheet, a hat with notes on the brim, or some other circumstantial evidence like a cluster of students who all have the same answers marked on a multiple-choice test.

- Collect as much evidence as possible, such as cheat sheets, copies of exams or papers with suspected cheating, and the like.
- Circumstantial evidence is allowable.

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CHAPTER 8: AVOIDING TRIAL TRIBULATIONS

Here are some of the top ways to avoid problems should a cheating case go to trial or a hearing.

- Simplify your process. More steps mean more chances for mistakes.
- Faculty should not be wary of participation. Faculty members may feel like there is little point in policing academic integrity. However, remember that the truth matters. As professors, the truth is our stock in trade. We can't just let things go, even if it creates more work for us to confront and report cheating or even if it puts us in an uncomfortable position.
- Due process is a constitutional requirement for public institutions. Public colleges must follow the 14th Amendment constitutional right to due process.
- Private schools must follow due process too. Private colleges cannot arbitrarily expel or fail a student, so basic due process guidelines should still be followed. There are two types of due process. Procedural due process examines if you used appropriate procedures to reach your outcome. Substantive due process examines the appropriateness of the penalty.
- The accused doesn't have a right to cross-examine, but you might allow some form for fairness.
- You are not an attorney. No Perry Masons, please. Your role is not to cross-examine the witness or dramatically prove guilt.
- Learn to deal with the extraneous folks who show up. If someone has no role in the process, the person can be excluded from a student hearing. Address the possibility of extraneous participants in your policy; otherwise your hearings are going to be filled with people who want to make character references or accusations.

Additionally, there are some guidelines for providing due process:

- Provide adequate notice.
- Provide policy information.
- Provide an opportunity for students to present their side.
- Act in good faith.

The top two due process mistakes:

- Failure to follow timelines.
- Failure to follow the college's own policy.

CONCLUSION

An instance of cheating doesn't have to be the end of the world. A young person can learn and grow from it.

Very often, cheating cases are excellent opportunities for university professionals to teach students something that is going to help them later in life. Although there must be a penalty for cheating, it can be a penalty that, while difficult, might not ultimately deter the student from his or her goal. Instead, this is an opportunity to help the student learn from mistakes early on. Cheating doesn't have to be a roadblock; handled with integrity and sensitivity, it might simply be a detour that teaches a valuable lesson.

APPENDIX A

ACADEMIC INTEGRITY TOOL KIT CHECKLIST FOR FACULTY AND ADMINISTRATORS

1. The top ways to create a culture of academic integrity on campus:

- Honor code
- Orientations
- Tutorials
- PR campaign
- Classroom strategies

2. Easy-to-understand documents that help students understand what contributes to cheating are needed due to changing norms. They might include:

- General information including a lengthy list should be used in policies, tutorials, and orientations
- Teachers should be clear in syllabi when providing their definitions of cheating, plagiarism, and collaboration issues for each assignment
- Best Practice: Virtual Academic Integrity Laboratory
- Best Practice: What Is Plagiarism at Indiana University?

3. Classroom strategies to deter cheating during and before the exam

- Syllabus statement
- Talk about cheating seriousness
- No consequences in syllabus (due to appeal processes)
- Tell students what constitutes violations of academic integrity in YOUR class
- Assign cheating-resistant assignments
 - Use comparison/contrast in assignment
 - Require data collection through personal interviews
 - Rotate use of assignments
 - Multiple drafts
 - Best Practice: *Prevent Plagiarism with Creative Assignments Ideas for Faculty* (Truman State University)

4. Protecting yourself from defamation and invasion of privacy charges that arise from commonly used confrontation methods

- Meet with student privately
- Be nonconfrontational
- Be civil in tone and conciliatory
- Have penalty decided before meeting
- Avoid public accusations
- May send the information, without defamation, to those involved in the case

5. Handling grading and course completion while in mid-investigation

- Allow students to complete test and stay in class
- Allow students to attend all future classes and turn in all other assignments
- Give an incomplete if hearing not concluded by end of semester

6. Protecting yourself from the two worst due process mistakes

- Failure to follow timelines
- Failure to follow college's own policy
- Provide adequate notice
- Provide full policy information
- Provide an opportunity for students to present their side

7. Understanding the types of evidence needed to prove a claim successfully

- Collect as much evidence as possible (electronic documents; cheat sheet, copy of exams or papers with suspected cheating)
- Circumstantial evidence is allowable (same answers by three people on multiple-choice exam)

APPENDIX B

Q&A WITH MOON AND JENKINS

Q: *Would faculty nonverbal actions in the classroom pose risk of defamation? You mentioned third-party “published” risk (if someone hears you accuse a student of cheating). But what about someone else seeing you move a student to another seat in a large class (very obvious, not subtle) or taking a cell phone photo of cheating evidence (e.g., written crib notes on a student hand)?*

Jenkins: The biggest risk attaches to your words rather than your actions. However, you’re right to suggest that you should be careful about what you do as well. Remember that, when moving students, you should move several of them at once—perhaps even the entire class. That way, you’re not seen as singling anyone out. I believe it’s acceptable just to take up crib notes—but not the test itself—rather than snapping a cell phone photo.

Q: *If a student is placed on an academic warning, remediation, or probation plan as a result of cheating, who can that be shared with?*

Jenkins: This is one of those things that should be clearly outlined in your college’s policy, in which case the answer is “only those specified in the policy.” Generally, these are the people who have a “need to know” because they’re directly involved in some way in the disciplinary process. But you should avoid sharing the information with others.

Q: *What is the role of a student-run honor code committee (with faculty advisors) in assigning sanctions? Should faculty give the penalty and then a committee be used for a hearing or should faculty delegate the determination of the penalty to the committee?*

Jenkins: I think having a student-run committee in charge of judging cheating violations and assigning penalties is a great idea. I do think there needs to be some “adult” guidance from faculty members and/or student affairs professionals—not because students might be too lenient but because they might actually be harsher than the administrators might have been. Again, who exactly hears cheating cases and who determines punishment should be spelled out clearly in the college’s policy, which should then be followed to the letter. Generally, I’d say that if such a committee exists as part of the disciplinary structure, then faculty and staff should avoid being seen as “dictating.”

Moon: Again, this is a decision made by each college, but I feel cheating penalties should be set by faculty based on the circumstances involved. Faculty know the students and the event that led to a cheating accusation and can often resolve the situation without the need for a formal hearing if given the authority to handle penalties.

Q: *If a student admitted to cheating, is it fair to share this information with future instructors?*

Jenkins: As tempting as this might be, you should avoid sharing information about “known cheaters” with future instructors, who are likely to form biases—that may in fact be unfair—as a result of that information. Legally, future instructors are not on the list of those who “need to know.”

Moon: There is a question as to whether this might constitute “invasion of privacy”—publication of private facts—so I would be hesitant to consider this.

Q: *What is your view on using hardware and software to attempt to prevent cheating in online exams?*

Jenkins: I’m going to let Debi take this one, because she knows a lot more about those types of hardware and software than I do. I’d just say, briefly, that I’m in favor of anything that can help prevent cheating as long as it doesn’t significantly damage the learning experience for all those students who aren’t cheating. Personally, I believe that being aware that cheating is going on, understanding the sorts of things students are doing to cheat these days, and taking reasonable precautions to deter those activities is quite different from assuming that all students are cheating. I don’t think, as teachers, we should go into our classes with that mind-set. I think it’s toxic to the learning environment.

Moon: Software that locks down exams so they can’t be printed out can easily be overcome by using a snap of a camera phone. There are also ways to beat the systems of webcams, digital fingerprints, and other hardware. My problem is that, like Rob, I think this type of strategy punishes all students for the cheating of a few. I believe that the burden is on faculty to give cheating-resistant assignments and exams so that we don’t facilitate a cheating environment.

Q: *What are your thoughts regarding having a third party present at the meeting with the student? Examples: department chair, dean, student’s advisor, etc.*

Jenkins: The way most policies are written, having a third party present makes the conversation official and puts it on the record. If that’s what you want to do, fine—just make sure you follow the policy in terms of who is invited and how that invitation is extended. And remember that once you officially embark on the process, the final result may be out of your hands. If you want the conversation to be off the record, to give the student an opportunity to come clean and avoid stiffer penalties, then keep it between the two of you. I think this is a good approach, by the way, in many cheating cases. Remember that we’re more interested in students’ learning what’s right and wrong—and choosing to do what’s right—than in simply penalizing them.

Moon: I have had multiple cheating situations in the last 22 years and have resolved every one of them in my office. If a third party is involved, it would have been less of a teaching moment and more of a confrontation—two against one—which often puts the students on the defensive. Placing someone on the defensive is one of the best ways to lose in any negotiation!

Q: *What if you catch a student using a cell phone to cheat during an exam? What's the proper procedure to follow?*

Jenkins: The best thing to do is to include, in your course syllabus, a clear statement that students are not allowed to have cell phones in their possession during testing. Then you are in the clear if you want to confiscate a cell phone during the test. You're not necessarily identifying that student as a cheater—you're just enforcing your policy, which applies to the entire class whether they're cheating or not. Then, if you think the person was cheating, you can approach that student in private after the class.

Moon: Rob is right on track...this is a great example of how smart policies avoid problems down the road!

Q: *What about the use of electronic dictionaries for international students? Does anyone consider this cheating/an advantage? What about an alternative solution for these devices if they should be banned?*

Jenkins: I don't see a problem with any students using dictionaries, spell check, etc. That's the world we live in. Outside of the classroom, everybody has access to those aids on a daily basis—and thank goodness. However, this is an issue on which many people of goodwill disagree. For that reason, it's an issue that the college community needs to hash out among themselves and then decide how it's going to be dealt with. If the consensus is that it's cheating, then that needs to be stated clearly in the collegewide policy and in individual instructors' syllabi. And if the consensus is that it's not cheating, then that needs to be stated too.

Q: *Some departments care about cheating, and some don't. How can we convince our colleagues to all get on the same page?*

Jenkins: This may require you (plural) to revisit your college's policy on cheating. You could add to the policy a statement that all instructors need to include the policy in their syllabi and then enforce it. Of course, you can't make individual instructors enforce the policy, and as you say, some departments will be more diligent than others. But if instances

of cheating come to light and it can be shown that instructors neglected their responsibility to deter cheating, then those instructors can be held accountable in their annual evaluations and so forth. If that happens once or twice, you'll soon find that everyone is embracing the policy.

Moon: My suggestion is to make the process very simple, where faculty can resolve most cases themselves privately, controlling the penalty decision and not making it into such an elaborate hassle that it intimidates faculty. When the process is complex and the hearing becomes a big event, many faculty will just steer clear of even confronting the cheating issue.

Q: *What if a student cries when you confront him or her about cheating?*

Jenkins: When my children were little, they always cried when they were in trouble. That did not release me from my responsibility as a parent to discipline and teach them. Any parent who allows a child's tears to deter him or her from doing the right thing is, quite frankly, a bad parent. The same holds true for faculty members and administrators in their in loco parentis role.

Moon: Stay professional and don't be affected if a student turns on the waterworks. Remain calm and keep your distance. Cheating sites online recommend that students cry when confronted "because teachers fall apart when you cry." Don't be sucked into touching them in an effort to comfort them, because it could expose you to a sexual harassment lawsuit.

Q: *What do you think about a total ban on electronic devices in the classroom?*

Moon: I have no problem with it at all. But I think it would be very hard to implement. Some of my students would rather saw off a foot than give up their cell phones. But it is certainly within the authority of the school to do that.

We use mobile learning devices at our college, and we use podcasts to transmit lectures. After a student has taken a class with us, the student then can download the podcast. And the students get questions as they go over the lecture. We have also implemented an iPad pilot. So for us it would be a little more difficult to ban electronic devices. But if you had a school that really wanted to do that, it could.

I think the best way to go is flip it and make it positive. Create a culture where it's just socially unacceptable to cheat, so much so that your peers will think less of you if you cheat. If your peers think less of you, there will be much less cheating.

Jenkins: I agree; it is going to be hard to implement. And I think that our classrooms are changing so much that many of our electronic devices are becoming an integral part of the way that professors teach and students learn. I think it's probably better to devise testing strategies around

those devices rather than trying to eliminate the devices. Because even if that works today, there's going to be some point in the future where it's going to be impossible.

Q: *What about asking students to surrender electronic devices for a limited period of time?*

Moon: There is nothing wrong with that. Some graduate programs I know of do that: ask students to put their phones in a basket up at the front of the room.

Jenkins: But you are opening yourself up to liability issues if the phones are damaged or if somebody picks up the wrong phone. Part of my philosophy about cheating from day one has always been, to the extent possible, to avoid enacting policies that hurt everybody in the class, including the people who don't cheat, just to catch the people who are going to cheat. We want to create a situation where not as many students want to cheat. It is like fighting crime. We can't deter all criminals without completely destroying our individual liberties. Likewise, we can't deter all cheaters. There are things we can do to deter cheaters, just like there are things we can do to deter pickpockets. But along with that goes the creation of the culture of integrity, because if students really want to cheat, they will find a way.

Moon: It's the faculty's responsibility to create assessments that are cheat resistant. I'm afraid we've become a culture that is somewhat lazy in using test banks and creating projects for students on which it is easy to become a cheater. Part of our burden is to create assignments and assessments on which it is difficult to cheat. For example, giving multiple-choice or true/false questions from a test bank makes it much easier for a student to cheat. Also, giving a paper assignment on a broad or general topic, like global warming, makes it easy to cheat through a paper mill. Create assignments that require a lot more critical thought. If you put critical thinking into assignments, there's a lot less cheating that goes on.

Q: *What special actions should you take in response to a case of suspected serial cheating?*

Jenkins: Serial cheating should be handled exactly the same as any other case of cheating. The most important part of a serial cheating case is that you can have multiple pieces of evidence. If you have multiple exams, for example, where you saw a correlation between responses from two people, you may have a case of serial cheating. However, you follow the same process as for a single instance of cheating; just because someone might be a more serious cheater doesn't mean you don't go through the process in exactly the same way as with a single instance.

Also, be careful if another instructor comes to you and warns you that a suspected cheater is

in your class. This may constitute an invasion of privacy, especially if the student has not been proven to be a cheater.

Q: *You have to be so careful about sharing suspicions or information. Whom do you turn to for advice or counsel?*

Moon: The first person to go to is the department chair. That department chair could talk to the dean or provost, depending on the procedure set up at your institution. Go up the hierarchy. Remember, you have a privilege when you're speaking to those people, and you are protected against defamation even if your suspicions of cheating were not correct, as long as you obeyed the hierarchy.

Your institution needs to have a process for dealing with cheating, and it needs to be spelled out in the faculty handbook. The policies need to be clear and step-by-step to avoid the complexity and confusion that characterize many policies that aren't well written.

Q: *How do you handle cheating in a large class of over 200 students?*

Moon: It is very difficult, and it often involves the use of statistical correlation when there are wrong answers that are all the same within groups of people. This is particularly difficult because often it is a TA handling the class rather than a professor.

When a TA sees suspected cheating, he or she can come to the professor and report the behavior. Then the professor can follow the process. However, the best way to avoid cheating is to have assignments that are difficult to cheat on. If you have a large class and are giving multiple-choice tests, you're asking for problems. Have a significant writing component on the test.

Another recommendation is to have assigned seating on test days and vary that seating from test to test. Get the students to move around if you have any suspicion at all. Also, consider having three or four versions of the test and staggering who gets which version, so even if a student looks at someone next to him or her, it won't be the same exam.

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