

THE ETHICS OF OPINION IN ACADEME: QUESTIONS  
FOR AN ETHICAL AND ADMINISTRATIVE DILEMMA

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**ABSTRACT.** If we accept that all plagiarism is wrong, the issue is black and white. But are there more challenging questions that color the issue with shades of gray that may influence or help clarify the ethical underpinnings of the act? Does intent matter? Does the venue matter? Does the form of writing matter? What about a professor when working as a private citizen, rather than in his/her academic role? Might plagiarism be mitigated when there is no associated financial gain? Is a writer's history that exhibits impeccable ethical integrity relevant? Should these factors, and/or other factors, even be considered in a university's administrative response — or non-response? What might employing an ethical approach contribute to wrestling with the dilemma? The authors explore critical issues that might face a senior academic administrator when confronting the need to respond on behalf of a university to a charge of plagiarism leveled by an influential newspaper against a university professor for a social responsibility-focused opinion-editorial published in this newspaper.

**KEY WORDS:** administrative dilemma, ethics, opinion-editorial, plagiarism, social responsibility

INTRODUCTION

Plagiarism. Writers, particularly those in an academic environment, recoil from even the hint of plagiarism. Accusations appear absolute. There is guilt before adjudication. But is plagiarism so absolute? Are there not questions to consider in determining guilt, or perhaps even the amount of guilt? Is there room to consider possible extenuating, mitigating, or explanatory circumstances? Does the absence of premeditation and/or personal gain matter? Can a writer make an error without intention, and therefore might the error be viewed as less offensive? What questions are appropriate, what factors are relevant? Using the following scenario as background, and appreciating what ethical analysis

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Personal identifiers associated with the scenario have been removed or altered in an effort to protect confidentiality and promote anonymity.

might contribute to the ensuing deliberations, these and other potential questions are raised for consideration.

#### THE ETHICS OF OPINION

Chris Walters, Academic Vice President at a state university, was shaken by the telephone call she had received an hour earlier. A senior editor of a leading newspaper had called her at home, informing her that he had just concluded a brief phone call with a long-term, well-respected, tenured senior professor at her university. Two days earlier, the newspaper had published an opinion-editorial (op-ed) written by the professor, but today the editor had received a letter from an undisclosed reader who reported wording similarities between the op-ed and the text from an earlier letter emailed publicly to an issue-focused distribution list. The reader, and now the editor, alleged plagiarism by the professor, and wanted to know what Chris thought about the similarity between the two pieces.

Buying time, Chris had promised to look into the matter in the morning and to call the editor as soon as she had more information, but now she wondered about the validity and the seriousness of the charge regarding an op-ed piece, where to start, and how to proceed. She thought about the professor named by the editor, of their prior interactions and of his national stature as a scholar and activist. He teaches courses in business ethics, social responsibility and policy at the business school and conducts research on the interactions of individual, organizational, and community responsibility and partnerships. He is known on- and off-campus as a scholar, a public citizen and a political activist who promoted social issues, causes, and outcomes important to national policies affecting business, public health, and community issues. While his academic and political advocacy for social issues has led to his own recognition in local, state, and national press, it may have also targeted him by those who disagreed with his advocacy of social responsibility. Chris knew he was to be her first phone call in the morning.

The next morning, arriving at her office even earlier than usual, Chris discovered the professor had left a voicemail message following his conversation with the editor the night before. He said his immediate responses were both concern and surprise, as he was unaware of the basis of the allegation. His cautious response to the editor neither acknowledged nor denied the allegation; instead he attempted to distinguish between the scientific, peer-review rigor associated with scholarly works being reviewed for publication in professional journals, and the personal opinion, political commentaries on controversial issues that were staples of the opinion pages of local newspapers. He trusted his personal ethics, as he knew he had not consciously plagiarized, but he also understood

the seriousness of the assertion, particularly in an academic environment. He also considered that he might have been targeted because of his prior advocacies and activism on controversial social issues.

Chris called him immediately, and scheduled a meeting between the two of them for later that morning. During the meeting, he said he had decided to prepare an op-ed piece for state-wide newspapers that decried the financial and ethical impact of the Iraqi war on social responsibility and social programs nationally. Financially, he felt the hundreds of billions of dollars being spent in Iraq could have been much more productively spent in the United States to address issues of poverty, color, education, the reconstruction of New Orleans, and more. Ethically, he protested what he perceived to be unethical actions from the outset by the administration to promote and then justify the war.

Writing quickly, he relied on some of his past writings, as well as other sources readily at hand, including the public email letter he had just received. Its words sounded much like those he had used so often in past. Somehow, unconsciously and inadvertently, he failed to attribute his source for these portions of the text. The op-ed had been hastily prepared, not carefully reread, and irrevocably, he had simply clicked the 'send' tab to email it to his university's media relations office to combine his academic reputation and their media resources to facilitate a wider, more efficient distribution and possible selection for publication.

Their meeting concluded, Chris now had to consider both the ethical dilemma and her administrative response options. She felt that because the newspaper had contacted her, she had to pursue the issue formally. To do so then meant that the allegation of plagiarism would be investigated in accordance with the newly established, never before employed, university policy on misconduct in scholarly activity.

But she knew it was not a simple adjudication — she first had to address several ethical and procedural questions that may or may not be relevant in deciding if the actions constituted plagiarism, and if so, what the university's response should be.

#### ETHICAL PERSPECTIVES

Different ethical approaches may be used in considering distinctions between intentional plagiarism versus its accidental or unintentional occurrence. They may also be relevant regarding how to respond to a confirmed case of plagiarism.

“Utilitarian theories hold that the moral worth of actions or practices is determined solely by their consequences. An action or practice is right if it leads to the best possible balance of good consequences over bad

consequences for all the parties affected. In taking this perspective, utilitarianism believes that the purpose or function of morality is to promote human welfare by minimizing harms and maximizing benefits” (Beauchamp & Bowie, 1993, pp. 21–22). Applying this ethical approach, one might look less harshly on a case of plagiarism when it occurred unintentionally as part of an action undertaken to improve the collective good, such as reducing the killing associated with war or promoting the health and wellbeing of a population. While not seeking to mitigate the harm associated with using another person’s words without due acknowledgment, an accidental error committed solely in seeking to improve the social and physical well-being of a significant population, without self interest, might justify its being distinguished from and judged less severely than an intentional act, undertaken for self-interest and lacking a broader purpose of improving the human condition.

In contrast, Kantian ethics (defined by Immanuel Kant, 1724–1804), or deontology as it is commonly titled, rejects the prioritization of the consequences of one’s actions characterized by utilitarianism. Deontology supports “a fundamental moral law — a categorical demand that persons be treated as ends in themselves and never solely as a means to an ends of others. In other words, persons must be treated as having their autonomously established goals and must never be treated purely as the means to others’ goals” (Beauchamp & Bowie, 1993, p. 30). Among Kant’s *categorical imperatives*, viewed as categorical because they allow no exceptions and are absolutely binding, is the principle of respect for persons (Beauchamp & Bowie, 1993, p. 31). Little if any distinction is made between intentional or unintentional plagiarism when applying the categorical imperative of respect for persons. Further, there would be little if any consideration afforded to the action, or its intended purpose or consequences. Hence, an unattributed use of another’s words is simply inexcusable on any grounds.

In examining the written op-ed, perhaps utilitarianism would be more tolerant of an unintentional or accidental error, and its resultant harm, considering that the error occurred while promoting the larger societal good. Upon verifying the plagiarized content, the use of another’s words ought to be reviewed, but sanctions might be mitigated by the professor’s acknowledging an honest error, the lack of personal gain, and the noble purpose of the op-ed message. A somewhat analogous, but possibly more dramatic, situation might involve the utilitarian acceptance of the unfortunate and unintended harm done to a small number of human research subjects resulting from medical experiments aimed at finding a treatment for a deadly disease afflicting countless others (i.e., the greater good).

Yet the stricter, narrower application of deontological reasoning would simply cite that a wrong had been committed, that the plagiaristic act violated the respect due the original author, and nothing else mattered. This approach would dismiss any other factors, and in so doing, would dismiss the questions of intent, accident, and the desired purpose associated with the op-ed message.

Recognizing the competing arguments of these two different ethical approaches, it becomes important to carefully weigh each of the proposed questions, and perhaps others, in deliberating any potential response. As with most ethical dilemmas, what may on the surface appear to be easily resolved may in fact require a far more complex and involved analysis.

#### QUESTIONS FOR AN ADMINISTRATIVE DILEMMA

The Academic Vice President now faced resolving two main questions: (1) did the circumstances surrounding the published op-ed constitute an ethical dilemma, with multiple options that reflected different values and perceptions, each of which was mutually exclusive, and (2) was existing university policy violated with the publishing of the op-ed?

At the outset, some academics may view the above actions as ‘black and white,’ constituting a clear instance of plagiarism and a violation of academic integrity emanating from a deontological perspective, for which the professor should be held accountable. Others, adhering more to a utilitarian perspective, might argue that while there was evidence of plagiarism, further analysis could suggest additional distinctions that could mitigate the outright labeling of the op-ed as plagiarism committed with intent warranting a punitive response. In this interpretation, the writing may or may not be considered a violation. If the language had been chosen unintentionally, conducted to improve social welfare and the public good, the purpose of the writing might ethically justify the outcome, and suggest the university should simply move forward by dismissing the adjudication.

Therefore, in addition to having a new, untested procedural policy to guide the university review of this charge, the Academic Vice President must also resolve several issues of definition, propriety, functional roles, and intent relevant to the professor’s and the university’s actions. Furthermore, concerning the management of ethics by the university, the Academic Vice President recognized that interpreting the professor’s actions would require a typology involving at least the following specific questions before the charge could be adjudicated (Figure 1).

1. What is plagiarism?
2. What is the role of “intent?”
3. Is serving “the public good” a rationale?
4. Is an op-ed piece “scholarly?”
5. Is there a distinction between a faculty member’s personal and professional expression?
6. Does the use of the university’s resources (media center) expand the university’s scope of administrative response?
7. Is the professor’s history and expertise in social responsibility relevant?
8. What are the professor’s rights in this adjudication process?
9. What conciliatory actions are available?
10. What could the professor have done differently to have avoided this outcome?

*Figure 1.* Questions for consideration.

### *A Question of Plagiarism?*

What is plagiarism? Is it absolute, simply ‘black or white,’ or are there different points along a continuum to indicate different interpretations? Are there circumstances, characterized by ethicists as a ‘slippery slope’ (Volkh, 2003), that might constitute different degrees of plagiarism? Are there situations where it becomes increasingly difficult to distinguish moral differences among actions and options? Are all acts of plagiarism considered ‘equally’ wrong deserving the same degree of sanction, or might different forms of plagiarism be viewed with greater or lesser tolerance or ambiguity, even if such an act is always best avoided and always considered wrong?

While there are multiple definitions and, therefore, multiple interpretations of what constitutes ‘plagiarism,’ it is generally believed that all plagiarism, whether deliberate or accidental, constitutes an unethical act. As defined in Black’s Law Dictionary (Garner, 1999, p. 1170), plagiarism is “the act or an instance of copying or stealing another’s words or ideas and attributing them as one’s own.” Goldstein (2003, p. 8) acknowledged, “Plagiarism is an ethical, not a legal, offense and is enforceable by academic authorities... It occurs when someone – a hurried student, a neglectful professor, an unscrupulous writer – falsely claims someone else’s words, whether copyrighted or not, as his own.”

In reviewing both the op-ed piece and the earlier email, it was readily apparent that there were passages common to both documents. Furthermore, given, the professor's failure to cite the relevant language from the email, in 'black and white' terms, an act of plagiarism had indeed occurred. Yet, Rodgers (1996) suggested that "plagiarism is not so easily defined. In general, definitions of plagiarism include the idea of theft of language, wording, or ideas. One definition often repeated (and quite possibly plagiarized) specifies the intent to 'pass off' language 'as one's own.'" He adds, "to some it might appear that plagiarism is easy to spot, but it is easy to find situations where 'reasonable people will disagree.' ... For others, ethical positions are not inherently privileged but appear relativistic."

In its 'Statement on Plagiarism', the American Association of University Professors (AAUP) (1991) stated:

The offense of plagiarism may seem less self-evident in some circles now than it did formerly. Politicians, business executives, and even university presidents depend on the ideas and literary skills of committees, aides, and speechwriters in the many communications they are called upon to make inside and outside of their organizations. When ideas are rapidly popularized and spread abroad through the media, when fashion and the quest for publicity are all around us, a concern with protecting the claims of originality may seem a quaint survival from the past or even a perverse effort to deter the spread of knowledge. Nevertheless, within the academic world, where advancing knowledge remains the highest calling, scholars must give full and fair recognition to the contributors to that enterprise, both for the substance and for the formulation of their findings and interpretations. Even within the academic community, however, there are complexities and shades of difference...

Definitions of plagiarism, the importance of avoiding plagiarism, and the means by which plagiarism might be avoided appear on multiple university websites urging caution by students and faculty alike (e.g., Indiana University and Purdue University). The University of California-Davis (2001) stated that "plagiarism means using another's work without giving credit... Using words, ideas, computer code, or any other work by someone else without giving proper credit is plagiarism." According to Spaff (1983), "work includes original ideas, strategies, and research, [and] writing, charts, pictures, graphs, diagrams, data, websites, or other communication or recording media, and may include sentences, phrases,

and innovative terminology” (p. 438). In addition, the academic websites of Indiana University (2004) and Purdue University (2004) have addressed the importance of avoiding plagiarism and how it can be avoided.

The Office of Research Integrity (ORI), U.S. Department of Health and Human Services, provided a working definition of plagiarism with respect to scientific misconduct: ‘ORI considers plagiarism to include both the theft or misappropriation of intellectual property and the substantial unattributed textual copying of another’s work’ (ORI, 1994).

Recent plagiarism cases have been reported in the media (Bombardieri, 2004; Bombardieri & Mehegan, 2004; Schworm, 2005) and in academic and scholarly communities (Harris, 2004) with safeguard measures investigated and tightened. These cases have involved high-profile academic and popular press individuals, including Doris Kearns Goodwin, Stephen Ambrose, and Charles Ogletree [Boston Globe, 2004]. Despite the celebrity of these authors, there is little room to deny that when evidence indicates that the work of another has been used without crediting the original creator (or source) of the work, an act of plagiarism has occurred.

### *A Question of Intent?*

Is ‘intent’ relevant in defining or assessing plagiarism? How can intent be determined? Is there a moral difference between an occurrence that was intentional, deliberate and/or consciously committed versus an occurrence that resulted from an unintentional, accidental, inadvertent, or neglectful omission of attribution or credit due and intended? Does unintended plagiarism constitute the same level of violation as premeditated plagiarism with the expectation of possible personal gain? Are there moral differences between intentional, deliberate plagiarism versus unintentional, accidental plagiarism? Should such differences matter? Should such instances then be administered less harshly? Might the degree or scale of intent associated with specific acts permit them to be viewed along an ethical gradient in a severity index? While all acts of misappropriating language or concepts may be viewed as plagiarism, is there a moral distinction between actions resulting from an unintentional omission versus a more deliberate commission?

Black’s Law Dictionary identifies an ‘act’ to constitute “the process of doing or performing; an occurrence that results from a person’s will being exerted on the external world; also termed *positive act*; *act of*



*commission*” (Garner, 1999, p. 24). In turn, a negative act is defined as “the failure to do something that is legally required; a non-occurrence that involves a breach of a legal duty to take a positive action; also termed an *act of omission*” (Garner, 1999, p. 24).

As an intentional act, the act of plagiarism would be committed and “directed to that end” (Garner, 1999, p. 25). Moreover, it is “foreseen and desired by the doer, and this foresight and desire resulted in the act through the operation of the will” (Garner, 1999, p. 25). In having intent, the doer often is induced by motive to commit the act, and is mentally resolved and determined to do so (Garner, 1999, p. 813). Intentional plagiarism would involve the doer consciously committing the act, likely due to a real, perceived, or at least anticipated personal reward, incentive, or other motive. Such rewards or inducements might include financial gain, promotion, recognition, expediency, or other physical, economic, social or behavioral benefit that the action might hasten or actually precipitate.

In contrast, an unintentional act does “not result from the actor’s will toward what actually takes place” (Garner, 1999, p. 25). With unintended and unplanned plagiarism, the doer’s failure or omission resulted from honest error, even if by less excusable sloppiness, carelessness, or neglect. Unintended plagiarism was not precipitated by or to secure any anticipated beneficial outcome.

Therefore, an essential determination in determining administrative action in a case of plagiarism should include the element of ‘intent.’ Acknowledging that plagiarism in any context is wrong as a matter of normative ethics, if it were the product of honest, human error and characterized as an act of omission, it would not seem equivalent to an act that was intentionally perpetrated. The latter constitutes intentional deception and theft of another’s work, which is explicitly plagiarism and clearly scholarly misconduct. Moreover, acts shown to have been motivated by or resulted in personal gain (e.g., monetarily, professional, recognition) implicitly suggest there may have been a conscious effort to deceive.

### *A Question of the Public Good*

Do actions to further the ‘public good’ (Plato) also mitigate intent? While not characterizing a defense of plagiarism, are there any grounds that might mitigate its wrongness and/or distinguish its severity when it occurred in promoting the public good versus when it is prompted for personal gain? In other words, is plagiarism more defensible when unintentional and occurring in promoting the public’s

good (e.g., a public advocacy essay promoting increased corporate social responsibility)?

In addition to examining intent, the purpose of the work should also be considered. While it could be argued from a deontological perspective that there is no form, content, or purpose that can mitigate a finding of plagiarism, and that all plagiarism is categorically wrong and inexcusable, the contrasting, utilitarian argument would recognize that the message, regardless of its failings, serves a greater good, e.g., enhancing social responsibility, promoting corporate citizenship, reducing potential public harm, etc. Therefore, while not justifying the wrongfulness of the plagiarized act, the finding of this single action could be mitigated if its intent was to bring about a greater good, thereby outweighing the harm caused by the act (Bowie, 1987). This attempt to diminish the severity of a single act, particularly if due to human error, may still offend because it then appears to condone the harm and disrespect caused by the act of plagiarism. Nevertheless, the noble purpose sought to maximize the positive, public outcome rather than the plagiarism process per se. Similar arguments have been used to justify conducting controversial medical experiments, in ‘doing bad in the name of good’ (University of Virginia Health System, 2004). In such cases, while medical investigators do not consciously seek to place their subjects at risk, they strive for positive outcomes for a greater social good (e.g., discovering more effective treatments, reducing pain and disability, enhancing quality of remaining life).

#### *A Question of Scholarly Activity*

Is there a difference between a professor’s expression of personal opinion in the public interest on a controversial political topic and the professor’s scholarly submission of a peer-reviewed manuscript or the reporting of research at a professional conference? Does personal opinion writing, such as an op-ed piece, regardless of plagiarized portions, constitute ‘scholarly activity?’ Once such a classification is made, does it automatically constitute grounds for a formal administrative inquiry and investigative process by the university? How should such writings, particularly if they are of a sensitive or social policy nature, be defined within institutional policy, and how should they be interpreted by peers and viewed by the faculty member? Is the nature (i.e., a social policy commentary advocating a particular position) and location (i.e., a local newspaper) relevant? Even if specific writing constituted plagiarism, does a local

newspaper op-ed piece constitute scholarly, reviewable activity? Does it support charges of scholarly misconduct and merit university involvement?

Another issue central to this scenario involves whether the allegation should be characterized as ‘scholarly activity’ by the professor’s university. The op-ed piece was not intended as scholarly. It did not reflect new research findings or intellectual concepts, nor was it subjected to any peer review process common to works seeking scholarly publication. It was simply a personal expression of opinionated political speech; his personal opinion that government and business bear a joint responsibility to partner in promoting social responsibility and in developing the resources to affect social responsibility.

In the natural sciences, scientific or laboratory-based research leads to tangible findings, products, and/or empirical data. In many of the social sciences, empirical or quantitative data are similarly produced and the evidence of statistical applications is evident. These may be more easily characterized as research.

Unfortunately, ‘scholarly activity’ or scholarship appears to be less explicitly defined and more subject to interpretation, despite the classic work of Boyer (1990) and others (Lunsford, 2000; Huber, 2000; Glassick, Huber & Maeroff, 2000). Typically, ‘scholarship’ is a broad concept that includes ‘research,’ yet ‘scholarship’ remains less well defined and subject to discourse, even within academe. Recent work has assessed the dimensions of scholarship using a set of qualitative standards (Glassick et al., 2000) despite the absence of a universally-accepted definition. In practice, however, one defining characteristic of scholarship has been peer-review and/or professional journal publication. While ‘scholarship’ is often used in university policies associated with promotion and tenure and with academic or scholarly misconduct, a more universal definition of ‘scholarship’ appears to be more expansive, based on change and evolution, broader versus narrow.

The US Department of Health and Human Services Office on Research Integrity (ORI) (1997) prepared a ‘Model Policy for Responding to Allegations of Scientific Misconduct’ that continues to serve as a model for universities in designing their policies on scientific (research, or scholarly) misconduct. The ORI (1997) stated that misconduct “means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does *not* include honest error or honest differences in interpretations or judgments

of data.” While the professor’s university broadened its policy definition by substituting ‘misconduct in scholarly activities’ for the more restrictive ‘scientific misconduct,’ there is no mention of letters, opinion-editorial writing, or other forms of personal speech printed in local newspapers cited among their examples. Given the absence of specific examples related to such opinion writing published in local daily newspapers, perhaps its framers saw a difference between ‘scholarly activities’ and expressions of personal opinion?

Little, if any, research exists that addresses personal opinion, political speech, letters to the editor, or other editorial writing (e.g., op-ed writing) as scholarship or ‘scholarly activity.’ Left unanswered is whether or not publishing in local newspapers constitutes ‘scholarship,’ or if it might fit a broad, umbrella definition of ‘service to the profession.’ Regardless of whether or not this writing may involve plagiarized content, which is separate and independent from being defined as ‘scholarly activity,’ it indicates the need to clearly define more explicit criteria and objective, qualitative measures with which to define ‘scholarship.’

### *A Question of Citizen Behavior*

Is a faculty member precluded from engaging in political advocacy or from voicing personal opinions on those issues related to their teaching and scholarly activity? Does being a recognized subject matter expert preclude one’s personal expression of political opinion in the same area? What is the role of personal opinion and/or political free speech? What criteria distinguish free speech, protected under the first amendment of the U.S. Constitution, from scholarly work, subject to scholarly rigor, with misconduct adjudicated by an academic institution? In short, are there different standards or expectations for peer-reviewed scholarly activity and/or scientific research versus personal political speech or opinion?

Accepting the prior discussion of ‘scholarly’ as including peer review and professional journal publication, clearly publication in the editorial pages of a daily newspaper meets neither of these criteria. The popular press is not professional journals, and editorial review is not peer review. Therefore, it would seem there are different standards for scholarly rather than political opinion. These standards clearly apply to professional acceptance, but the literature seems silent on any application to opinion. Well-known plagiarism cases have focused on publications of scholarly books and articles (e.g., Bombardieri & Mehegan, 2004), but

cases of plagiarism in opinion seem absent from the literature. Similarly, free speech, protected by the First Amendment of the US Constitution, is different from Academic Freedom in that while both allow wide latitude in content, Academic Freedom nevertheless requires consistent scholarly attribution, while free speech seems to be more open, less stringent. Although the focus of the opinion was an issue of social responsibility, which was the professor's area of professional expertise, the venue and the context would indicate the tenets of free speech were applicable, rather than the stricter tenets of scholarly assessment. It would appear a case can be made that there are de facto differences in the standards for opinion writing versus scholarly writing.

### *A Question of Institutional Association*

What are the implications of the op-ed writer being identified in the op-ed as a faculty member at a particular university, or that the item was distributed by the university's media relations office? Does the use of the institution's name and resources call for imposing an institutional review process with potential disciplinary action? Would the same institutional process be invoked if the university association had not been included? What is the role of the administrative process, and can ethics be managed through administrative fiat?

Many organizations are sensitive to when an employee (or faculty member) is identified by his/her association with that organization. This concern arises because the public may perceive the individual's actions (i.e., free speech) as an expression of institutional policy or position rather than one individual's opinion, and separate from the organization, particularly regarding a politically or socially sensitive issue. Moreover, while having a personal op-ed distributed by a university's media relations office may contribute to its acceptance, it may also lead to a perception that the institution verified, agreed, or condoned its contents or message. Thus, while the university media center's distribution of the op-ed did *not* carry any institutional endorsement of position or content, in the absence of a disclaimer, such endorsement could be perceived by the newspapers to which it was sent. As a personal op-ed, it would seem best not to use the university as a means of distribution.

Therefore, it may be argued that faculty members should clearly distinguish their opinions from their organization's stated positions. This distinction may be accomplished by a faculty member not disclosing

academic degrees, titles, or association (i.e., faculty appointment) at a given university, yet to do so may limit the impact of the free speech by ignoring the faculty member's expertise that could even be independent of their association with a university. Importantly, citing the faculty member's academic degrees and other professional credentials, including their academic associations, creates added credibility and may even contribute to the opinion writing being printed by the local newspapers. These earned attributes help define the faculty member's credibility and expertise on particular issues, and the credentials describe individuals beyond their employing institution. It is reasonable to specifically note in a disclaimer, however, that the use of any institutional affiliation is often done solely for local identification and connection, and does not constitute an endorsement by the employing university.

#### *A Question of Personal Integrity (or Reputation)*

In addition to content, does the history, sense of integrity, and known character of the doer deserve consideration in assessing the definition of plagiarism? To what degree ought the professor's lengthy history of public service (including over twenty-five years at the university and advocacy for multiple socially responsible causes) be considered? Does the professor's character and standing, both academically and in his local community, merit consideration in the overall process of seeking, defining, and determining justice? Does a single act, apparently accidental and unintentional, mitigate against administrative harshness when considering the decades of ethical and productive service to his various university, business, public health, and local communities? Does accepting the basic premise that all plagiarism is wrong arbitrarily dismiss and thereby negate the twenty-five year body of the professor's conduct, or should such a well-recognized and respected history have a role in these considerations and deliberations?

Accepting the basic premise that all plagiarism is simply wrong would arbitrarily dismiss and negate the twenty-five year body of the professor's conduct, yet it would seem such history might still have a role in these considerations and deliberations. While the scenario suggested that the professor's stature as citizen and academic seemed to be discarded in the rush to judgment by the newspaper editor and, subsequently, the administrative powers and processes at the university, surely an untainted history would allow a more reasoned application of

'innocent until proven guilty,' or even 'the benefit of the doubt' prior to the resolution of a first instance of alleged wrong doing.

Perhaps another approach might mirror the discretionary actions of police departments in enforcing the letter of the law. Some traffic stops for speeding ten miles an hour above the speed limit can result in being ticketed, while other similar stops result in a simple, non-punitive warning. Similarly, the television images of people looting food and water from grocery stores in New Orleans, stealing for basic survival in part because of inadequate government response and protection from the devastation of Hurricane Katrina suggested these people would not be prosecuted, while the police appeared to focus their efforts on those who looted appliances and other items not needed for basic survival, but rather for greed and profit. This approach appears to explicitly consider individual intent as being relevant to the ethical dilemma posed in this discussion, and it would likely be similarly considered in courtroom adjudication.

### *A Question of Individual Rights*

Does the professor in this case have the right to be informed as to who actually complained to the newspaper? While such knowledge might not mitigate the wrongness of the professor's act, does it provide the professor with the right to know the identity of the person who made the original accusation, a right supported by the normative ethical principles of both justice and respect for persons, and the legal right from the Constitution to confront your accuser?

Ethical obligations differ from legal obligations as, in the latter, the defendant has the right to be confronted by his/her accusers and not necessarily shielded by an intermediary (in this discussion, the newspaper). If viewed from a deontological perspective, the right to personal autonomy, i.e., respect for persons, is deemed paramount demanding such disclosure. Moreover, this issue may be particularly relevant in situations when an 'actual accuser' might be supported or even compensated personally in some way by a special interest group that could benefit from discrediting or otherwise impugning the writer's integrity and/or message. Such accusation may constitute the accuser's agenda that seeks to prevent, reduce, or weaken future outspoken, public advocacy efforts that oppose the special interest's products and/or practices. The legal right to confront such accuser, combined with process and other legal protections, could promote a stronger sense of

justice in allowing accusers and defenders to state their positions in front of others, with subsequent questioning and rebuttal, to best clarify ambiguities and misinterpretations in order to focus on facts, not agenda.

### *A Question of Administrative Review*

Should the writer be judged differently following his/her forthcoming response? Is there an outward expression of integrity following an honest, public acknowledgement of the error rather than if the writer seeks to deny or resist any investigation of wrongdoing? After recognizing the error, what reconcilable actions might be undertaken? What sanctions, if any, might reasonably and fairly be imposed on the professor, and why? Might there be an alternative resolution process, either facilitated by or even without involving the university? Could this alleged plagiarism be resolved between the complainant from the local newspaper and the professor? Should potential value differences between scholarly or academic misconduct versus personal and unintentional error be considered in any administrative action? Given the professor's discovery and acknowledgement of his error, might a formal written (and published) apology to the newspaper, its readers, members of his university community, and the author of the relevant email, be a suitable resolution?

If this formal administrative review is to be applied to personal or political speech, the administrative authority has an inherent ethical obligation to articulate the interface between institutional responsibility and the faculty members' constitutional right to free speech, especially regarding non-institutionally-related political or controversial issues. One might interpret that personal political speech by scholars should not be subjected to the strictures of scholarly endeavors. Expressing one's first amendment right of political speech should not be constrained as an element of scholarly activity; to do so would constitute a fundamental denial of free speech. Administrative policy and penalty must be flexible in determining the severity of both the crime and the punishment.

Furthermore, plagiarism appearing in a local newspaper's opinion page may or may not constitute the same seriousness as work found in a scholarly work published in a peer-reviewed scientific or scholarly professional publication. If opinion writing is 'scholarly activity,' an administrative review process may have been appropriate in this scenario due to the professor's association with the university. But if opinion writing is not



‘scholarly activity,’ this formal review process designed to investigate misconduct in scientific or scholarly activities may have been unnecessary.

### *A Question of Prevention*

What could the professor have done differently to have avoided this scenario and its impending outcome?

Rather than having to analyze and adjudicate the choice of language, the error in language could have been prevented had the writer simply exercised constant due diligence, including having been more focused on what specific words were included in the op-ed. But platitudes like, ‘Only write when fully awake,’ and ‘Be aware of the words you choose’ are simplistic, and apply only after the fact in post-event analysis. Unfortunately, there are no simple answers, only repeated actions to imbue the author with a sixth sense that ‘something’ doesn’t sound right. In this scenario, the writer may have made a simple but honest, human mistake of omission, not commission.

In considering what could have been done differently once the error was noted, damage control suggests working with the university and the editor immediately to determine the magnitude (or the paucity) of the error, i.e., intent, motive, gain, etc. With no financial gain, and likely very little if any reputation gain possible, perhaps if the professor had simply written an immediate apology to the paper as a Letter to the Editor, the magnitude of the issue would not have become as consuming as it became. In addition, perhaps the professor could have directly contacted the e-mail’s original author(s), who could then have diffused the issue by granting permission, even after the fact, for the use of their words. These actions could have diffused ‘the smoking gun’ and thereby helped ameliorate the concerns of the editor and the university in their adjudication and subsequent deliberations and administrative sanctions. It is possible at this point that this issue would then simply have become ‘much ado about nothing’ (Shakespeare, 1600).

### SUMMARY

While this discussion recognizes that plagiarism in any form can violate multiple normative ethical principles, it also serves to promote further inquiry into faculty responsibilities, definitions of ‘scholarly activity’ and scholarly misconduct, and the necessary clarification regarding what constitutes personal (or free) speech among members of an academic

community. It has illustrated some of the important questions that can be considered in assessing the ethical dilemma and the administrative deliberations that attend an allegation of plagiarism. It has suggested the importance of developing more specific definitions of what constitutes scholarly activity or its misconduct, and policy that should distinguish between that portion of a faculty member's life and additional activities for which s/he is responsible to the University and that portion reserved to him/her as a private citizen. While this delineation may not be readily apparent, these distinctions should likely reside, *a priori*, with the institution. Moreover, where questions remain, perhaps an institution should respect the individual's rights as enunciated in constitutional law (i.e., the first amendment) or in the cherished ethical principle of respect for persons (individual autonomy), rather than presuming and pursuing a stricter, more punitive administrative review process. University officials, in proposing and implementing this administrative review process, could articulate the types of actions related to both allegations and supported actions of scholarly misconduct. In addition, the specific roles and potential actions of the pertinent university officials involved in investigating and adjudicating such allegations could also be articulated to promote a prompt, impartial institutional response. The implementation of sound, ethical (and just) procedures appears as important as the policy content.

This discussion of the questions related to the potential ethical dilemma surrounding an instance of alleged plagiarism, and the questions attending the subsequent determination of the university's response, nevertheless recognizes that acts of plagiarism are wrong and no writer should plagiarize intentionally. Equally important, however, every writer must strive to avoid unintentional plagiarism, despite, or because of factors that may be raised to mitigate the severity of the act. All writers should ensure that they are using their own language by diligently reviewing the content of their writing. When quoting other writers, all writers should ensure they accurately give credit to these authors. Yet, while not justifying plagiarism, when discovered, there is also merit in determining whether the plagiarism resulted from an honest (albeit unjustified) act of omission, an unintentional error versus a deliberate act likely committed through self-interest. While the act is wrong in either case, perhaps the unintentional error may be more understandable, even tolerable, especially in conjunction with a quick, public, and responsible repentance.

As with resolving many ethical dilemmas, the principle of utility, or balance, appears relevant in addressing the outcome of the above situation. This principle "is limited to balancing the probable outcomes of actions – benefits, harms, and costs – in order to achieve the highest net benefits"

(Beauchamp & Childress, 2001, p. 166). It is a principle of “proportionality... the principle of utility allows society’s interests to override individual interests and rights” (Beauchamp & Childress, 2001, p. 166).

This principle would recognize the past integrity and respect of the professor, as well as the unintentional, albeit sloppy, attempt to promote greater social responsibility for the greater good. Moreover, the principle could balance the competing arguments of utilitarianism and deontology by accepting that plagiarism is universally wrong yet simultaneously recognizing the circumstances and goals under which it occurred. Thus, the plagiarism that resulted from the op-ed is not excusable, as a wrong has been committed, but the individual harm associated with the professor’s action, the use of another’s words without appropriate attribution, might be balanced by the social benefits to the public. In sum, this situation illustrates both the ethical and the administrative dilemma involved, that there is no simple, black or white solution, but rather the more uncomfortable realization of the complexities and their shades of gray.

From an ethical and administrative perspective, it is hoped that a careful consideration of the questions germane to the situation, questions both raised and not raised, can generate the necessary discussions and deliberations to create clearer policies to benefit responsible faculty and institutional administrators alike.

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