

The Ethical Obligations of the Forensic Educator

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When people talk about value they have given up talking about reality.[1]

The forensics community has been grappling with the problem of the ethics of forensics for several decades. The code of ethics of the American Forensic Association has undergone several revisions in recent years, and this code has been adopted by many other organizations including the Cross Examination Debate Association. Ethical issues relating to coaching practices, transfer students, evidence usage, and a host of other practices have been the subject of heated debates among forensic educators.

At the Second Developmental Conference on Forensics, a statement on the ethics of forensics that went beyond the current code of ethics in outlining responsibilities of participants in forensics was adopted. [2] This statement reflected the interest in the forensics community to not only establish minimum expectations for the behavior of coaches, but also to suggest certain goals that forensic educators should strive to meet. It is not enough to simply avoid behaving unethically; in an activity where there are constant temptations to behave in a less than ethical manner, it is important for a coach to strive for the highest ethical behavior.

The interest in ethics on the part of forensic educators reflects an interest in ethics by individuals in education [3] and other parts of our society.[4] In all segments of our society more and more attention is being focused on the ethical choices made by individuals.

An ethical perspective on forensics is essential for the practitioner of forensics. [5] The director of forensics frequently will face ethical

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decisions concerning types of coaching strategies, recruiting techniques, use of evidence, and so on. While it is not possible to cover all the specific ethical obligations of a director of forensics, this essay will focus on two sets of obligations: obligations to the profession and obligations to the participants.

The Nature of Professional Ethics

In 1978, David Zarefsky noted that many coaches label practices as unethical that should not be characterized in that manner:

. . . many teachers and coaches of debate tend to label as 'unethical' a range of practices which do not involve moral considerations at all. The practices may be pedagogically questionable (although arguments often can be made in their defense as well) but they do not involve matters of ethics. When we apply the label 'unethical' in such a broad way, the effects are not innocuous. We forestall needed argument about conflicting notions of theory, strategy, and pedagogy. We trivialize the nature of ethics, heading some to believe that there are no ethical considerations in debate. And we fail to identify what really are substantial ethical issues.[6]

There is a distinction between rule and an ethical rule. [7] Many forms of human activity need rules and/or guidelines to govern behavior. For example, in sports there are rules governing proper behavior. In forensics, there are rules governing the length of time a speaker can speak and the content of speeches. These rules, while important, are not ethical rules. If a speaker speaks overtime, we normally do not label that speaker as unethical anymore than a football player caught holding is unethical. These rules are not ethical in nature. There is a distinction between a rule that limits speaking time and a rule prohibiting the use of manufactured evidence; the first regulation outlines the "rules of the game," while the second rule specifies behavior that ought to be condemned.

While intuitively there seems to be a clear difference between these two types of rules, explaining the nature of that distinction is a

difficult task. Part of this distinction is that we can change rules of the first type -- rules of the game -- without fundamentally altering the nature of the activity. To alter time limits might change some strategies, but the activity itself could continue. On the other hand, eliminating rules on evidence distortion would seriously undermine the activity. Johannesen suggests:

Ethical issues are potential in human behavior whenever that behavior may have significant impact on other persons, when the behavior involves conscious choice of means and ends, and when behavior can be judged by standards of right and wrong.[8]

One of the current issues in the philosophy of ethics concerns the relationship between professional ethics and ethics in general.[9] The "separatist thesis" argues that a professional should develop an ethical system that is distinct from, and may even conflict with, one's personal ethical code. There may be some question of what an individual should do when the professional code conflicts with one's own personal code of ethics (as is the case when a lawyer defends a client that he/she believes to be guilty):

Most rules of legal ethics, however, are rules of professional -- not moral -- conduct. They reflect a consensus of the legal profession as to how the legal system should operate and the roles that lawyers should play in that system. The rules may require an attorney to act in a manner that is inconsistent with, or irrelevant to, his or her moral views.[10]

Fortunately, in most cases the moral code of the discipline is consistent with one's individual code of ethics. At other times, there may be clear conflicts. For example, we tell our speech students to be honest and not to deceive the audience. In the case of debaters, however, the debater may be encouraged, to defend a position that the debater does not believe to be true. This action would be unethical in a public speaking situation, but ethical in the debate context since in the context of the profession the action is consistent with the goals of the profession. What is critical is

that the code of ethics helps define the field and the code helps promote the goals of the field. To understand the nature of ethics of forensics, then, it is necessary to discuss the nature of the field.

Ethical Obligations to the Profession

The assumption behind a professional set of ethics is that an individual has certain obligations to the profession. A lawyer, for example, accepts certain ethical obligations as a member of the legal profession; a doctor accepts certain obligations as a member of the medical profession. These obligations exist only for members of the individual profession; a person outside the profession of medicine, for example, has no obligation to follow the Hippocratic Oath.

A set of professional ethics is necessary for any profession to exist. The profession will have a certain set of goals, and in order to achieve this goal, certain standards of conduct are expected of the members of the profession. These standards are needed, both to ensure the continued viability of the profession and to enable the profession to achieve its goals.

These "do's" and "don't's" are protectors of the fabric and as such have social utility. Living together harmoniously requires acceptance of certain values and conformity to generally understood boundaries of behavior. The person who strays too far from these central guidelines is no longer a "useful" citizen. Such an individual is punished for unethical conduct by being to some degree physically or psychologically separated from that group.[11]

The forensic educator is part of a larger educational profession, and as such shares many of the goals of the profession of higher education. The forensics educator needs to recognize that, as a professional, he or she has an obligation to the profession that may conflict with other obligations. For example, when recruiting students, the coach has an obligation to keep in mind the best interest of both the student and the

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profession. As regards the student, the coach has an obligation to be honest with the student and to keep the student's best interest in mind. While it is tempting to think that what is in the best interest of your program is also in the best interest of the student you are recruiting, it is important to attempt to be objective in recruiting. It is exploitive to use a student for the gain of a forensics program when that student could have and should have, taken advantage of another educational opportunity. It is the interest of the student, not the individual forensics program, that should be paramount.

The primary goal afforded the student in forensics is the search for truth:

The obligation of university teachers to each other within their universities and among universities, to their academic institutions as such and to their students, all derive from their primary ethical obligations to pursue truth and to transmit it.[12]

In forensics, especially debate, oratory, and extemporaneous speaking, the search for the truth is a vital part of the educational process. As educators, we seek to improve our understanding about the world around us. Individuals compete in speech, in part, to increase their understanding of reality.

The search for truth takes place within an adversarial system. An inherent byproduct of this system is competition; participation in forensics is, at least one level, a zero-sum game. As a result of this competition, participants and coaches frequently are tempted to cut corners and/or to make unethical choices. If unethical choices did not result often in a competitive edge for the individuals that violated the code, there would be no need for articulating these violations. Unfortunately, unethical behavior often gives an individual or a school a competitive

edge. It is up to the community to counter the incentive to engage in unethical behavior.

Several choices facing an educator raise ethical issues. Recently, for example, there has been an increased interest in the ethics of transferring. There are undoubtedly some cases where there are no ethical problems involved when a student transfers, such as when a student transfers after a program has been eliminated. There are also examples of clearly unethical transfers -- the overt offer of financial aid to induce a student to transfer or the initiation of contact with a student from another school. What divides the legitimate and illegitimate behavior is that the second set of behavior undermines the continued viability of the activity; widespread transfers for purely competitive reasons may discourage directors of smaller programs, and an unfair competitive advantage is created. In addition, it can create significant friction between directors and between directors and students, creating a hostile atmosphere.

Widespread transfers for purely competitive reasons also fosters an unhealthy view of competition. While some amount of competition is inevitable in academic forensics, the over-emphasis on competition undermines the educational benefits of the activity if it is not kept in perspective. Competition is a means toward an end -- increased skills as a public speaker and/or a public advocate.

The forensic educator also should promote the continued viability of the activity. In administering a tournament and evaluating contestants, for example, the educator has an obligation to be fair. This is necessary in order to ensure that individuals are rewarded if they demonstrate an understanding of the nature of the activity and are penalized if they fail to follow these guidelines.

Ethical Obligations to the Student

In addition to obligations to the profession, the forensics coach has an obligation to the participants in the activity. These obligations fall into two main areas. First, the educator has an obligation to provide equal respect to all participants in the activity. Given the educational nature of the activity, all participants should be given an opportunity to participate to receive help, assuming there are sufficient resources available.

This obligation may go beyond a simple obligation to those individuals who are on the squad; there also may be an affirmative obligation to recruit individuals outside the forensic community. Over ten years ago the first National Developmental Conference on Forensics suggested that

[r]esearch should be conducted to determine why certain persons are drawn to forensics activities and others, particularly women and minority group members, resist involvement. [13]

Ten years later, the second developmental conference recommended:

The American Forensic Association should establish a committee given the specific charge to increase and strengthen forensic participation by identifying ethnic, racial, gender, and handicap barriers which may currently inhibit student participation and should disseminate findings concerning such barriers throughout the forensic community. [14]

To limit fair treatment to those on the squad, while systematically excluding classes of individuals from the squad fails to fully address the problem of fairness.

Individuals on the squad should receive equal consideration. To favor one class of individuals to receive special treatment (based on factors other than effort and other characteristics related to the activity) fails to promote the educational benefits of the activity. Sexual harassment as a blatant form of discrimination and even more subtle versions of discrimination are unethical in that they limit the availability of the

activity to a group of individuals. [15]

The coach creates an atmosphere for all participants in forensics. The function of forensics should be to promote the educational exchange of ideas. The advice of Conant, Griswold and Dodds concerning sports in 1951 applies just as strongly to contemporary forensics:

A student takes place in college athletics because of the value of the experience for him, and he has the same obligation as other students to assume responsibility for solving his educational problems. Any other view seems to be a distortion of educational and moral values. The athletic program exists for the welfare of the student, for the contribution it can make to his healthy educational experience, not for the glorification of the individual or the prestige or profit of the college. [16]

Second, the coach has an obligation to promote the ethical development of the student. At minimum, the coach should be sure that his or her students are aware of the ethics of forensics and the coach should rigorously enforce these rules. For instance, students caught manufacturing or distorting evidence should be penalized, ideally by reporting them to an honor council or taking other sanctions against them. This enforcement is often difficult for a coach. The coach frequently knows the debater well, and punishing that individual indirectly may hurt the squad if the debater is prohibited from competing. The ethical coach, however, should be sure the ethics code is enforced even if it means losing a competitive edge. Just as a student in a class caught fabricating sources would be given an "F," a debater caught distorting evidence should be punished. If anything, there are more reasons for punishing the debater. First, the debater that acts in an unethical manner is representing the school, and the unethical behavior hurts the image of the school (especially if there is no punishment). Secondly, if individuals who flagrantly violate ethical norms are not punished, it legitimizes the unethical behavior; the code becomes a sham.

The coach should also attempt to promote the ethical development of the student in other ways. The coach should attempt to influence the participants to behave in ethical manners. For example, the coach might encourage students to develop a healthy view of competition. Ronald C. Arnett, of Marquette, tells the story of a football team he was on in elementary school. His team's opponent had several good players on one side of the line, but several weak players on the other side. His team quickly found out that they could win very easily by always running to the weak side of the line and in the end, trounced the team.

Looking back on the game, he recognizes now that he gained nothing from that game. The team looked at competition from the perspective of winning, not gaining a skill. If the team really was interested in learning something, it would have tried to run against the strength of the other team, not the weakness. Even if the players lost, they would have improved their skills. The competition should be viewed as a learning experience, not as a chance to simply win trophies. Ironically, viewing competition simply in terms of winning may even be counterproductive in the long run. In the case of the football players, they became sloppy by taking advantage of the weaknesses of the other team, and they practiced bad habits instead of refining their skills by attacking the strength of the other team. In debate, speakers who cut corners also hurt the activity. The principle is that, if the goal of competition is education, not winning, one should test one's opponents' strengths instead of attempting to find and exploit their weaknesses.

This obligation may be one of the most controversial ones; many individuals believe that helping students develop an ethical and socially responsible view of life is an unimportant goal of education. [17] The assumption is that educators should not force their values on their

students.

This view is unfortunate. Initially, it assumes that the coach can have a neutral influence on the values of the student. That is hardly the case. The forensics educator frequently will be a role model for individual participants; in the daily interactions the behaviors of the coach set standards for squad members. As a leader, the coach either rewards, tolerates, or punishes behavior. Wynne notes that "on the whole, school is and should and must be inherently indoctrinative. The only significant questions are: Will the indoctrination be overt or covert, and what will be indoctrinated?" [18] Rather than passively encouraging a set of behavior, the coach should recognize that the choices made in coaching will encourage or discourage ethical behavior on the part of the students. Quintillian's definition of a good orator may still be appropriate.

The lack of interest in promoting ethical behavior on the part of students has been noted by several commentators. Nat Hentoff suggests that teachers who avoid taking a stand on moral issues abdicate their responsibilities and ultimately lose the respect of their students. [19] Secretary of Education William Bennett has urged schools to encourage students to make moral choices:

Instead of the three R's, Bennett likes to talk about the three C's -- "character, content and choice." In this view, both the home and the schools have roles to play in educating children, and sometimes they overlap: parents help teach their offspring to read, and schools help to shape their character. "Values, value, values," chants Bennett. "You want to help students develop reliable standards of right and wrong." [20]

It is ironic that at a time that intercollegiate debate is moving more and more toward the discussion of values in rounds, it has not placed an equal importance on promoting ethical behavior outside the debate round. Yet the training of individuals to reason may be interrelated with the teaching of individuals to make moral choices. Hahn argues that the

ability to distinguish between good and bad ethical judgments is a logical extension of the training of individuals to think. [21]

There should, of course, be some limit to this obligation. The line between appropriate moral guidance and indoctrination may be a fine one. Certainly there are some qualities of individuals (honesty, integrity, loyalty, etc.) that are fairly universally accepted as being desirable. Other values might be presented in a manner that leaves the choice up to the individual student, while encouraging the student to explore the moral issues inherent in the choice. The educator should be aware of these ethical choices and should help the student become more aware of the ethical choices made by a public speaker.

Conclusion

Any discussion of ethics tends to focus on the unethical. I am happy to say, however, that in my years of coaching I have found most debaters to be very ethical and, equally important, to be friendly and fun to work with. Unfortunately, however, there are a few individuals with little or no concern with ethics, and these individuals often are highly visible.

One of the fortunate developments in the last decade has been the increased interest in ethical behavior. As professionals, forensics educators have ethical responsibilities, both to the profession and to their students. The responsibilities include both the responsibility to promote the growth of the profession and the obligation to improve the quality of the activity. Beyond the professional obligations of the forensic educator, there are also obligations to the student. Both prospective and current students should be treated with respect and dignity. Additionally, the coach should attempt to increase the participant's awareness of the ethical choices which speakers must face.

As educators, we have an obligation to consider the ethical choices inherent in forensics.

Notes

[1] Douglas Sloan, "Educating the Imagination," Antaeus Report, Summer 1984, p. 3. Quoted in David Charles Smith, "Values and Institutional Decision Making," Academe, November/December 1985, p. 14.

[2] "The Ethics of Forensics," in American Forensics in Perspective, ed. Donn Parson, (Annandale, VA: Speech Communication Association, 1984), pp. 15-19.

[3] John Martin Rich, "The Role of Professional Ethics in Teacher Education," Action in Teacher Education, 7 (Fall, 1985), pp. 21-24; Franklin Parker, "Moral Education in the United States," College Board Review, 137 (Fall 1985), pp. 10-15, 30; and Edward A. Wynne, "Transmitting Moral Values," Educational Leadership, 43 (December 1985/January 1986), pp. 4-9.

[4] "The State of American Values," U.S. News & World Report, December 9, 1985, pp. 54-58.

[5] Walter Ulrich, "The Ethics of Forensics: A Preliminary Inquiry," paper presented at the Second National Developmental Conference on Forensics, Evanston, IL, September 1984. (ERIC # 244 316); Walter Ulrich, "The Ethics of Forensics," in American Forensics in Perspective, ed. Donn Parson, (Annandale, VA: Speech Communication Association, 1984), pp. 13-14.

[6] David Zarefsky, "The Substance of Debate Ethics," Journal of the Illinois Speech & Theatre Association, 32 (1978), p. 62.

[7] This section draws heavily from Ulrich, "The Ethics of Forensics: A Preliminary Inquiry," pp. 2-3.

[8] Richard Johannesen, Ethics in Human Communication, second edition (Prospect Heights, IL: Waveland Press, Inc., 1983), p. 1.

[9] Alan Gewirth, "Professional Ethics: The Separatist Thesis," Ethics, 96 (January 1986), pp. 282-300. Corpus Juris Secundum argues, "What is generally called the 'ethics' of a profession is but the consensus of expert opinion as to the necessity of standards of professional conduct, and it has been said; that there is no difference between personal and professional ethics. Thus, professional ethics is not a distinct system of morality but is the application of accepted standards of right and wrong of conduct of employment." "Ethics," Corpus Juris Secundum, vol. 31, p. 798. For an alternative view, see Monroe H. Freedman, Lawyer's Ethics in an Adversary System (Indianapolis: Bobbs-Merrill, 1975); Thomas D. Morgan and Ronald D. Rotunda, Professional Responsibility: Problems and Materials (Mineola, NY: Foundation Press, 1976); Manard E. Pirsing, Professional Responsibility: Cases and Materials (St. Paul: West Publishing, 1970); and Kenney Hegland, "Moral Dilemmas in Teaching Trial Advocacy," Journal of Legal Education, 32 (1982), pp. 69-86.

[10] Robert H. Aronson and Donald T. Weckstein, Professional Responsibility (St. Paul: West Publishing, 1980), p. xix. See also Alan H. Goldman, The Moral Foundations of Professional Ethics, (Totowa, NJ: Rowman and Littlefield, 1980).

[11] William S. Howell, The Empathic Communicator (Belmont, CA: Wadsworth, 1982), p. 188. Quoted in Johannesen, pp. 143-144.

[12] Torgny Segerstedt, "On Certain Problems in Ethical Obligations of University Teachers," Minerva, 23 (Spring 1985), p. 63.

[13] James H. McBath, ed., Forensics as Communiation (Skokie, IL: National Textbook, 1975), p. 39.

[14] Donn Parson, ed., American Forensics in Perspective (Annandale, VA: Speech Communication Association, 1984), p. 43.

[15] See Billie Wright Dzeich and Linda Weiner, The Lecherous Professor: Sexual Harassment on Campus (Boston: Beacon Press, 1984). See also Sheryl A. Friedley and Marjorie Keeshan Nadler, "Perceived Gender Differences in Forensics Participation Leadership," paper presented at the Speech Communication Association Convention, Washington, DC, 1983.

[16] New York Times, October 29, 1951, p. 17. Quoted in John F. Rooney, Jr., "Intercollegiate Athletic Recruiting," National Forum, Winter 1982, p. 35.

[17] "General Education: New Support Growing on Campuses," Change, November/December 1985, p. 28. See also "Schools Wonder How to Teach Kids Ethics," USA Today, April 9, 1986, p. 4D, and Edward A. Wynne, "Transmitting Moral Value," in Educational Digest, 51 (April 1986), pp. 26-29 [reprinted from Educational Leadership, 43 (December 1985/January 1986), pp. 4-9].

[18] Wynne, p. 29.

[19] Nat Hentoff, "Should Morality be Taught in School?" Washington Post National Weekly Edition, January 6, 1986, p. 29.

[20] Eliose Salholtz, Diane Weathers, and Mary Bruno, "A Bully Pulpit for American Education: Bill Bennett Preaches his Simple Verities," Newsweek, March 17, 1986, p. 67.

[21] H. George Hahn II, "Ethics and Higher Education Cannot be Separated," Chronicle of Higher Education, April 9, 1986, p. 47.