

Ethical Case Studies in Teaching Philosophy: Case No. 4

(This series is under the editorship of Philip Pecorino. Readers interested in contributing to it, with a case, as a commentator, or in response to commentaries, should write him at Queensborough Community College, Bayside, New York, 11364 USA)

Conflicting Affairs

—————*At a mid-sized North American University the following situation developed. An untenured Assistant Professor A in the philosophy department was having an affair with student B, who was a philosophy major but not one of Professor A's own students. Student B applied for a research scholarship for the summer under the supervision of Professor C who was in another department. The Dean of Faculty, in an interview, informed Student B that the student needed a professor from the department in which the student was majoring to be the nominal supervisor in order to satisfy the scholarship requirements. The Dean telephoned Professor A to ask if that faculty member would be willing to become the nominal supervisor of Student B. The Dean did not know of the relationship between A and B, and Professor A, whose tenure appointment was under consideration, did not want the Dean to know.*

Should Professor A agree to serve as supervisor? Should a refusal be made, and, if so, how?

wise the student would not violate the principle of keeping authority and intimacy apart. After all, the initiative for supporting the student's scholarship application came from a colleague in another department. But even a nominal supervision provides opportunities for favoritism and for exploitation which it would be better to avoid.

The best option in this tangled situation appears to be to refuse the Dean's request without providing any substantive grounds other than personal preference. Despite the difficulties of giving such an unexplained refusal, it seems possible to politely but vaguely express a personal reluctance and to suggest a departmental colleague who might agree to the request. If the Dean presses for reasons, the least problematical course seems to be to tell a partial truth—that the student is a personal friend with whom the professor thinks it unwise to be in a supervisory relationship, even a nominal one.

Coda

Codes of ethics for university teachers say little about intimate relationships between teachers and students.

The 1966 Statement on Professional Ethics of the American Association of University Professors, for example, sets forth "in terms of the ideal" a description of the professor as a person who, among other things, "makes every reasonable effort . . . to assure that his [sic] evalua-

tion of students reflects their true merit" and "avoids any exploitation of students for his [sic] private advantage." But it does not say whether teachers should avoid intimate relationships with their students in order to assure fair evaluation and avoid exploitation.

The 1970 Guidelines Concerning Professional Ethics and Professional Relationships of the Canadian Association of University Teachers (revised in 1973 to remove sexist language) say that university teachers "must always be fair to their students. It is unethical for them to exploit students for their private advantage." They say nothing specifically about the ethics of having affairs with one's students or of certifying the performance of one's close friends or relatives.

Given the frequency with which college and university teachers develop intimate relationships with students, the teaching profession's code of ethics should be a lot clearer.²

Notes

1. See Sissela Bok, *Lying: Moral Choice in Public and Private Life* (New York: Vintage Books, 1979).

2. I thank my colleague Wil Waluchow for his helpful comments on an earlier draft.

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This case forces us to ask whether it is wrong for a professor to have a sexual affair with a student in his department. It is, of course, wrong to exchange a grade for sex or to manipulate a student's feelings while holding tangible power over her,¹ but this case raises more subtle questions. When grading is not an issue, when the student is not in your class, is sexual intimacy still wrong and, if so, what makes it wrong?

My discussion concentrates on the

appropriateness of the faculty-student affair because I judge the other issues to be comparatively less important for the ethics of teaching philosophy. That judgment is based on two considerations.

First, serving as a merely *nominal* supervisor of the research project does not appear to create a conflict of interest of a kind generally considered unacceptable at a university. Senior professors are frequently called upon to be more than nominal evaluators of the work of their colleagues who are candidates for tenure, some of whom may be close personal friends (or adversaries). Though the personal bond in such cases is not fully comparable, the

stakes are much greater and the responsibility to be impartial is more stringent. A member of a tenure review committee is also more clearly expected to be a disinterested judge, whereas a student's supervisor is likely, in any case, to be perceived as a sponsor and advocate.

Second, the extent to which the professor is required to sacrifice his own welfare to avoid a minor conflict of interest will depend to some extent on whether the affair itself was wrong. If it was not wrong, then the permissibility of his protecting his own interests seems clearer because he would be fulfilling an obligation to promote justice in his own case by defending himself against the threat of unjustified punishment by an unreasonable dean. If, on the other hand, the affair was wrong, then it could be argued that punishment is deserved and that protecting one's own interests is possible only at the expense of justice.

Now the central question: Did Professor A act wrongly in having the original affair? I think it is likely that Professor A did act wrongly, and to support this judgment I will argue that there are very few exceptions to the principle barring faculty affairs with students.

One of the strongest arguments against faculty-student affairs is that genuine mutual consent to an affair is impossible due to the great imbalance in power between professor and student.² This power imbalance exists even where grades are not an issue. Professors are established members of the university as an institution and have the verbal and other skills which are valued within the academic environment; students pay the university for the privilege of spending a few years acquiring those skills. Students do not have offices or mailboxes, their names are not printed in the class schedule, they are not given stationery, people do not wait at their doors to see them, and secretaries do not type their essays. These seemingly trivial matters of status affect people differently, of course, but they generally result in an enormous disparity of experienced power between faculty and students, making suspect any claim of "mutual consent" to a sexual affair

between them.

This argument, however, does not in itself compellingly rule out sexual involvement between faculty and students any more than it bans all doctor-patient affairs. Sitting in the clinic waiting room, I feel markedly less powerful than the doctors who are scurrying about in their white coats, but I would not infer that I am incapable of freely giving my consent to an affair with a physician who happened to be on the clinic staff. Nor would I insist that a doctor who meets someone in the hospital lunch room must refrain from pursuing his passion because that person might in the future become one of his patients. I therefore cannot accept the principle that an affair is wrong whenever there exists a large power imbalance between the parties. An additional premise is needed; for example, that the power imbalance creates vulnerabilities in one party making that party unable to judge his or her own interests with the usual degree of competence.

There is reason to believe that this often is the case with students in a way in which it is not with junior colleagues, secretaries, medical patients, or others who experience less power in a work setting or a professional relationship. To an extent markedly greater than other "subordinates," students experience "transference" with professors. Though not to the same extent as psychoanalytic patients with their therapists, students clearly do transfer to their relationships with teachers feelings that have been shaped by their bonds with parents and others from their past. We have all experienced students' anger or sadness that seemed out of proportion, rationally, to the matter (e.g., a grade) being discussed, and this is just what we should expect where there is a high degree of transference. Moreover, unlike the actual grading relationship, the emotional intensity of transference does not end immediately after a course is completed. In this way the professor-student relationship differs from most other professional-client relationships whose beginning and end are easy to determine. Unlike, for example, dental patients, whose relative lack of power is traceable

to the obvious differences in role between themselves and their dentists while they are in the office, students experience a vulnerability with professors in their departments that is based on psychologically more subtle factors that may not end until years after graduation (if then). A sexual affair would demand that students, already emotionally vulnerable in their everyday relationships with professors, confront those human experiences that require in all of us every bit of emotional strength we can muster. To the extent that students see us as parental figures, they will also, even unconsciously, expect us to be protective of their interests, and this expectation will enhance their vulnerability. In this climate students will generally not be able to exercise their own usual degree of competent judgment.

Stated this way, however, what seems called for are extreme caution and careful discrimination among students, not an absolute prohibition on sexual involvements. Since what we are discussing is not outright, conscious manipulation (which is clearly immoral) but rather a mutually passionate affair, we might well conclude that *any* sexual relationship involves risk and vulnerability and a loss of some of our usual powers of cool, rational judgment. Moreover, any intimate relationship involves transference and the risk of self-deception; unrealistic fantasies are not uniquely the domain of students. Judged this way, our obligation is always to respect the needs of our partner; if our potential partner is a student in our department, we must simply be sensitive to the special issues associated with that position, just as we should be sensitive to the special needs of a recently released mental patient or a person with a life-threatening illness or a former victim of spouse abuse. There may be potential partners whose power is so much less than ours or whose vulnerabilities are currently so great that they are simply unable to give "informed consent" to a sexual relationship with us, but, given the arguments so far advanced, being a student in our department would not in itself place a person in that category.

However, to justify a faculty-student affair in practice, it is not sufficient that a student be able to give competent consent; the professor will need to judge that the student who is his potential sexual partner is in fact able to consent. Since there are good grounds to believe that most students will not be able to judge their own interests sufficiently in deciding whether to pursue an affair with a professor, the teacher will have to determine whether a particular student is "one of the rare exceptions." Unlike a physician deciding whether a suffering patient is nonetheless competent to exercise autonomy, a professor judging the capabilities of his would-be lover will be very far from a disinterested party. Under these circumstances one may conclude that no professor should trust his judgment that a student is competent to give her consent to be his lover.³

It is still possible, of course, to imagine conditions that would allow a conscientious and self-reflective professor to trust his judgment: the student might be clearly and obviously free of the special vulnerabilities students usually face with professors, and the professor may know about himself, based on evidence corroborated by others, that he has unusual ability to judge even the most sensitive personal matters fairly and dispassionately. It is, of course, extremely unlikely in any given case that these conditions will be met. Before proceeding with an affair, the professor must have good evidence not only that the student is extraordinary but also that his own powers of judgment are extraordinary—and he will ultimately have to rely on his own judgment of the evidence.

From the case description, we know nothing about the judgment of Professor A or the strengths and vulnerabilities of Student B. We do not know the age or sex of either party, whether the student is an undergraduate or a graduate, under what circumstances the relationship was initiated, or who initiated it. Playing imaginatively with these variables, we can conceive quite plausible candidates for exceptions to the general rule against professor-student affairs. The student, for example,

might be an established brain surgeon who met and came to know the professor years before returning to school. But if Professor A is, say, over thirty and initiated the relationship with a twenty-year-old undergraduate who had once been in his class, there are powerful grounds for doubting the moral appropriateness of his actions.

Consider a possible exception. It was recently reported that the first lover of rock star Madonna, now 27, was a University of Michigan dance professor who is now 55. Neither party seems at all regretful. Before the full story broke, Madonna spoke discreetly:

I met Christopher Flynn, who saved me from my high school turmoil . . . I really loved him . . . He educated me, he took me to museums and told me about art. He was my mentor, my father, my imaginative lover, my brother, everything, because he understood me.

And Professor Flynn, amused and flattered by the story:

We've had such a long-time thing together that it never dawned on me, frankly, that I was however the hell many years older than her than I am. It has nothing to do with that, it has nothing to do with male and female. [sic] It has to do with two people just getting a tremendous bang out of knowing one another. We shared everything under the sun.⁴

Perhaps in this case we find ourselves making allowances for what we imagine to be a more free-spirited style of life in the arts world. Whether or not that characterization is correct, it is, of course, important to respect the choice of people who genuinely choose for themselves a life that stresses spontaneity, adventure, and even danger over emotional order and stability. Christopher and Madonna may be an exceptional pair.

But the lack of retrospective regret does not imply that Professor Flynn had good reasons for believing that the affair was ethically permissible at the time it began. Even if we assume that Madonna was capable of a competent, free choice, it seems unlikely that any professor really taken

with her would have been able to ascertain that she was. Most of us easily succumb to self-deception in such situations, and Professor Flynn's testimony offers little reason to judge him an exception.

The odds are that Professor A is not an exception either. Given the contingencies of a modern university, it is unlikely that Student B was able to give competent consent to a sexual affair or that Professor A was able to judge fairly that she was able to do so.

It does not necessarily follow that Professor A must offer a full confession to the dean, though an argument could be made for that position. We generally judge it supererogatory for a candidate to *volunteer* negative information, but this judgment may give insufficient weight to our obligation to see that we get our just desserts. In any event, if Professor A would not otherwise have been obligated to incriminate himself, then I do not think he is required to do so simply because he is asked about a different, and relatively minor, matter. But if he is incriminated for his liaison with Student B by members of his tenure committee, he will have a hard time mounting a rationally persuasive defense.

Notes

1. I use the male gender for professors (and doctors) and the female gender for students (and patients) mainly for simplicity and also because this usage accords with the facts of most of these sexual affairs and with most discussions of sexual harassment. None of my arguments depends upon any particular assumption about the sex of either party.

2. See Billie Wright Dziech and Linda Weiner, *The Lecherous Professor: Sexual Harassment on Campus* (Boston: Beacon Press, 1984), especially pp. 24-25.

3. I owe this point to Sidney Warschawsky.

4. Reported in *The Ann Arbor News*, September 21, 1985.

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