

# Accreditation and Academic Freedom

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# 1974 Annual Meeting of the ABA House of Delegates

“Whereas,  
the survival of the legal profession to the benefit  
of the communities and clients it serves is  
directly affected by the maintenance of the  
highest possible professional standards, and

Whereas,  
the training in the area of professional  
standards, responsibilities and conduct is an  
integral and indispensable part of quality  
legal education;  
now therefore be it

**Resolved,  
That the standards for the Approval of Law  
Schools be amended to read as follows:**

302(a)(iii): and provide in their curricula a course for credit required for graduation on the subject of the legal profession covering its history and traditions, its future potential, ethics, professional conduct and attorney-client relations.”

# 2010 Proposal for Accreditation of Colleges and Universities

“Whereas,

the survival of the academic profession to the benefit of the communities, institutions, and students it serves is directly affected by the maintenance of the highest possible professional standards, and

Whereas,

training in the areas of professional standards, responsibilities and conduct is an integral and indispensable part of quality education for the professorate,

now therefore be it,

**Resolved:**

**That the Standards for Accreditation be amended to read as follows:**

Each accredited college and university shall provide a course required for each professor on the subject of the academic profession, covering its history and traditions, its future potential, ethics, and professional conduct.”

How is a change in the accreditation standards to mandate an academic ethics course for each professor related to academic freedom?

Each of us in higher education must understand the close relationships among a family of concepts:

- Social contract of the peer-review professions
- Mission of the professorate (and higher education)
- Academic freedom
- Peer review
- Shared governance
- High faculty professionalism
- Acculturation into an ethical professional identity

# What is the Social Contract of the Peer-Review Professions?

(e.g. Professorate, Law, Medicine)

The tacit agreement between society and members of each peer-review profession that regulates their relationship with each other – in particular the profession's control over work.

# Friedson's Professionalism: The Third Way

- An ideal institutional professionalism includes a major precondition for the social contract of a peer-review profession. Public acceptance that the profession's work:
  - Contributes to a transcendent public good
  - Is grounded in a body of theoretically based specialized knowledge requiring a high degree of discretion
  - Requires credentials conferred by higher education

# Autonomy to Self Regulate

- Public grants a profession autonomy to regulate itself through peer review, meaning its members:
  - substantially control
    - entry (qualifying credentials, necessary university education that is influenced by the profession)
    - continued membership
    - upward mobility in the profession
  - set standards for how individual professionals perform their work

# Reciprocal Promises

- In return for professional autonomy, each member of the profession and the profession as a whole agree to meet certain correlative duties to the public:
  - maintain high standards of minimum competence and ethical conduct to serve the public purpose of the profession and discipline those who fail to meet these standards
  - promote and foster the core principles and ideals of the profession
  - restrain self-interest to some degree to serve the public purpose of the profession

# Autonomy of Individual Professionals

- Peers practicing in the profession understand
  - the complexity of the practice
  - protect a wide range of “judgment calls” as competent and ethical within the tradition of each profession

# Justification of Social Contract in Context of a Market Economy

- Strong presumption that the public good is maximized by a competitive market with management of each enterprise controlling work to provide the services that consumers want at lowest cost
- Exceptions granting the peer-review professions occupational control over work must be constantly justified as serving the public good

Without ongoing justification,  
there is a gradual loss of the social  
contract.

# Socialization of Members into the Social Contract

- Three apprenticeships necessary for entry and advancement in all the peer-review professions:
  - cognitive or intellectual apprenticeship of the profession's unique analytical skill applied to the profession's doctrinal knowledge
  - practical apprenticeship of the other skills necessary for professional life
  - apprenticeship of professional identity formation (The apprenticeship of formation into an ethical professional identity is professionalism)

From *Educating Lawyers* and *Educating Clergy*, the Carnegie Foundation

# Elements of an Ethical Professional Identity

- Important elements are similar across the peer-review professions
  - Personal conscience is the foundation on which each member of a peer-review profession builds an ethical professional identity.
  - Professional education engages students and practicing professionals over a career to develop personal conscience in a professional context.

# Personal Conscience in a Professional Context

- Each professional must internalize:
  - the **ethics of duty** — the minimum standards of professional skill and ethical conduct below which the profession will impose discipline
  - the **ethics of aspiration** — the core principles and ideals of the profession
  - the **peer-review duty** both to hold other members of the profession accountable for meeting the minimum standards of the profession and to encourage them to realize the core principles and ideals of the profession
  - the concept of **fiduciary duty** where the professional's self-interest is overbalanced by devotion to the person served and the public good in the profession's area of responsibility.

# Internalization of an Ethical Professional Identity Over a Career

## USMA Developmental Level Scores

Kegan Stage	Freshmen Class/1998	Seniors Class/ 1998	Mid-Career Officers	Senior Officers
Stage 2	21%	6%	0%	0%
Transition to 3	63%	28%	31%	0%
Stage 3	16%	47%	23%	11%
Transition to 4	0%	19%	8%	40%
Stage 4	0%	0%	38%	50%

# Social Contract of the Academic Profession

“It is conceivable that our profession may prove unworthy of its high calling, and unfit to exercise the responsibilities that belong to it. . . . And the existence of this Association . . . must be construed as a pledge, not only that the profession will earnestly guard those liberties without which it cannot rightly render it distinctive and indispensable service to society, but also that it will with equal earnestness seek to maintain such standards of professional character, and of scientific integrity and competency, as shall make it a fit instrument for that service.”

*1915 Declaration of Principles (AAUP)*

# Social Contract Defined

- Governing boards represent the public in social contract
- Mission of university and the professorate is creation and dissemination of knowledge
- Creating knowledge and teaching critical inquiry (deep learning) require exceptional freedom of speech in employment

# Social Contract Defined

- Two conditions must be met for exceptional freedom of speech to professors in research, teaching and extramural utterance:
  - individual professors meet correlative duties of professional competence and ethical conduct
  - the faculty of the institution, as a collegial body, assumes the duty of peer review to enforce the obligations to be met by individual professors

# Academic Freedom, Peer Review and Shared Governance

The tradition of board deference to faculty peer review of professional competence and ethical conduct is the linchpin of academic freedom in the United States.

# Shared Governance

- With respect to other matters (in addition to continued faculty status), shared governance urges that the missions of the university and the profession are best realized by granting varying degrees of deference to faculty decisions, depending upon how closely a faculty decision relates to the faculty's expert disciplinary knowledge concerning teaching and research.

# Faculty Professionalism

- “Faculty professionalism” defines the ethical duties required by the social contract for each professor as well as for the relevant groups of professional peers.
- The greater the faculty’s professionalism, the greater the deference the faculty merits.
- Five principles of faculty professionalism capture the correlative duties of academic freedom, including a faculty member’s contributions to peer review and shared governance. These constitute an ethical professional identity for a professor.

# First Principle

Each professor should, over a career, grow in personal conscience in the professional context of the other four principles of professionalism in carrying out the duties of the profession.

# Second Principle

Each professor agrees to meet the **ethics of duty** —

the minimum standards of competence and ethical conduct set by peers within both the profession and discipline and within the university

(including attending to the stated mission of the institution).

# Third Principle

Each professor should strive, over a career, to realize the

**ethics of aspiration** —

the ideals and core principles of the academic profession, the professor's discipline, and the professor's institution including internalizing the highest standards for professional skills.

# Fourth Principle

Each professor agrees to act as a **fiduciary** (with the corresponding duty to avoid conflicts of interest) where his or her self-interest is over-balanced by devotion to serving both the students through teaching and the advancement of knowledge through scholarship.

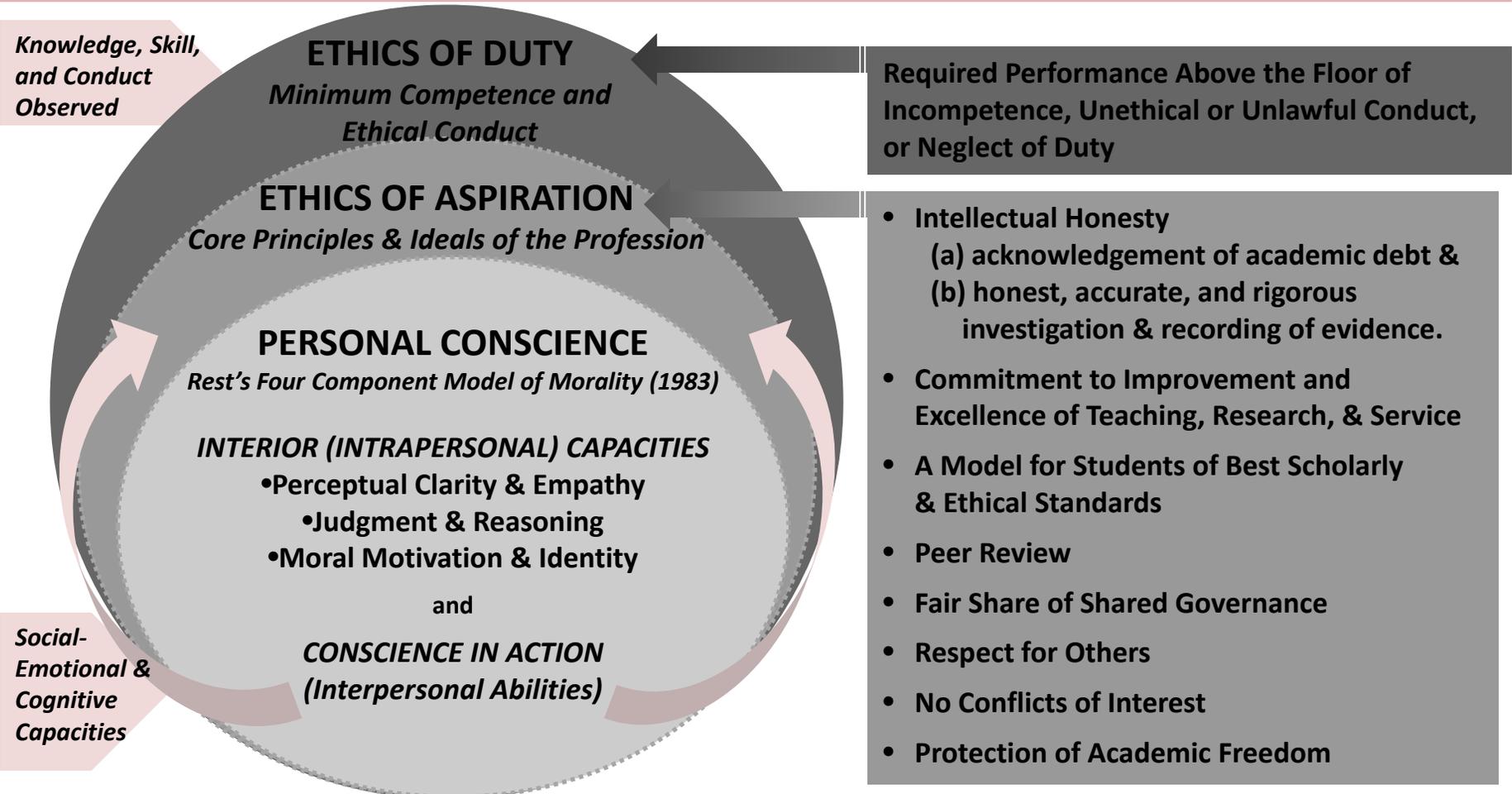
# Fifth Principle

Each professor and the members of the faculty as a collegial body agree to:

- 1) hold each other accountable to meet the minimum standards of the profession, the discipline, and their institution
- 2) to encourage each other to realize the ideals and core principles of the profession, the discipline, and the institution.

# EMPIRICAL PROFESSIONAL ETHICS: A Developmental Model of Professionalism for the Professorate\*

*The development and integration of personal and professional ethics over a career represent the highest level of professionalism.*



\*Adapted from Hamilton (2008), Rest (1983), and Boyatzis's (1982) model developing managerial competencies, this graphic (1) shows most observable skills and behavior as the outer layer, as well as the inner social-emotional and cognitive capacities of morality, and (2) suggests a dynamic process among the three dimensions of professionalism.

# To what degree do professors understand:

- The profession's social contract
- Academic freedom
- Peer review
- Shared governance
- Faculty professionalism

# Failure to Acculturate

- Available empirical evidence indicates widespread failure of graduate students and faculty to understand these concepts
- Graduate students and faculty are acculturated into the disciplines, not into the profession

# A Professor Can't Achieve and Defend what He or She Does Not Understand

The single most important step is to improve the acculturation of graduate students and faculty into these concepts, especially faculty professionalism.

# Who is Responsible for Acculturation?

- The Trustee Institutions for Each Profession
  - Graduate schools
  - Accrediting authorities
  - Licensing authorities (if any)
  - Employers
  - Funders
  - Professional associations and societies
  - Journals
- The Accrediting authorities for the legal and medical professions play a critical role on professional ethics.

# Six Regional Accrediting Authorities

## Current Standards

### ■ Academic Freedom

- For faculty/students 5
- Includes staff 3
- Clearly defined 0

### ■ Freedom of Inquiry

- For faculty/students 1
- Includes staff 1
- Clearly defined 1

# Current Standards Cont.

- Academic freedom's responsibilities mentioned 3
- Effective peer review mentioned 1
- Required shared governance
  - General – all stakeholders 2
  - Deference to faculty expertise 4
  - Clearly defined 0
- Required “explicit plans and procedures to ensure ethical conduct in research and instruction” 1