ETHICS AND THE ETHICS OF EDUCATIONAL RESEARCH

This chapter takes a communitarian approach to research ethics. Members of the research communities have responsibilities to and for the research community that include adhering to and taking collective responsibility for the maintenance of the community's ethical norms and for ensuring that the institutions and practices that shape the community's activities conform to them.

I will be guided in this chapter by a communal document, the American Educational Research Association's code of ethics, *Ethical Standards of the American Educational Research Association*, (AERA, 1992) as well as the discussion of this code to be found in *Ethical Standards of the American Educational Research Association: Cases and Commentaries* (Strike et al., 2002).

The Foreword of the AERA code reads, in part, as follows:

Educational researchers come from many disciplines, embrace several competing theoretical frameworks, and use a variety of research methodologies ... Education, by its very nature, is aimed at the improvement of individual lives and societies. Further, research in education is often directed at children and other vulnerable populations. A main objective of this code is to remind us, as educational researchers, that we should strive to protect these populations, and to maintain the integrity of our research, of our research community, and of all those with whom we have professional relations. We should pledge ourselves to do this by maintaining our own competence and that of people we induct into the field, by continually evaluating our research for its ethical and scientific adequacy, and by conducting our internal and external relations to the highest ethical standards. (p. I)

The Foreword begins by noting the fact of what I shall call epistemological pluralism. It ends by suggesting three central ethical obligations of educational researchers:

1. To direct their efforts to individual and social betterment.
2. To protect vulnerable populations.
3. To maintain the integrity of research and the research community.

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1Page numbers for the AERA code of ethics refer to the version in (Strike et al., 2002). The code is also available on AERA’s Web site.
These three themes, the question of epistemological pluralism, plus questions concerning the authorship and ownership of research are the concerns of this chapter. I begin with the notion of the integrity of the research community.

The Preamble to Part I of the AERA code says:

To maintain the integrity of research, educational researchers should warrant their research conclusions adequately in a way consistent with their own methodological and theoretical perspectives. They should keep themselves well informed in both their own and competing paradigms where those are relevant to their research, and they should continually evaluate the criteria of adequacy by which research is judged. (p. 7)

Here the notion of the integrity of the research community emphasizes the quality of its intellectual work. Research products must be warranted. The standards of Part I (p. 8) take note of the seriousness of fraud or dishonesty in reporting or interpreting data. Moreover, the passage gives an “epistemological” turn to the idea of integrity, emphasizing methodological and theoretical adequacy. Here we find ourselves at the citadel of research ethics. No responsibilities can be greater than respecting evidence and guarding the institutions and practices that ensure that evidence is respected.

The Preamble to Part I as well as the Foreword to the code also take note of the fact of intellectual diversity and intimate that it must be respected. While these passages urge researchers to judge their work by their own standards, they also urge them to be aware of other perspectives and to appraise their own. We should not, therefore, read them as advocating only a kind of epistemological authenticity. Two principal institutions whereby the research community maintains its integrity are peer review and the evaluative processes whereby aspirant researchers are credentialed and employed. The obligation to be current and competent is a collective obligation, and it permits some to stand in judgment of the work and the paradigms of others.

The standards of Part I of the AERA Code contain not only requirements to intellectual integrity but also requirements to do things such as to hire fairly and avoid harassment. While such practices may not erode the quality of research (bad people may do good work), they may nevertheless bring the research community into disrepute and reduce the impact of its work. Hence AERA’s code of ethics is concerned with both the integrity of research and the credibility of the research community. There are obligations to the research community that go beyond the “epistemological duties.” We should, however, take care how we apply this notion of credibility to the non-job-related behavior of researchers. It is not the purpose of professional ethics to make people responsible to the research community for all areas of their personal conduct.

The integrity of research and the credibility of the community require that systematic bias in judging research be examined and eliminated. There are at least four forms of bias to be avoided. One is intellectual narrowness — judging all work solely by the standards appropriate to one’s own paradigm. The second is willful or inadvertent discrimination based on race, gender, ethnicity, religion, sexual preference, or personal animosity. Here avoidance of bias requires not only openness to the work of others who are different from one’s self but also representation of these others in the peer review process. We should take note that disfavored groups have, in many cases, found new methodologies important to the expression of their concerns. The third is advocacy — distorting research to favor one’s cause or convictions. The fourth is the class bias inherent in the fact that researchers have interests and outlooks as a group.
The essential practice that research communities employ to ensure the quality of intellectual work and to combat bias is peer review. The core expression of peer review is the refereeing of articles submitted to scholarly journals. This activity significantly determines what research is available to members of intellectual communities. Indeed, it significantly determines what counts as knowledge and is a significant determinant of who gets promoted in research universities. Hence peer review ultimately determines not only what is thought to be known, but who is able to produce knowledge.

Why have peer review? It is not democratic. Indeed, it expresses that most undemocratic of maxims, "Those who know should rule." Those who are prominent in the process are a self-perpetuating elite. While criticism and debate are part of the process of peer review, the process of academic publishing is not fully a marketplace of ideas. Work is excluded from publication because it is not viewed as adequately argued or important. Why is not peer review a form of censorship? Why should what is to count as knowledge as well as the careers of those who produce it rest in the hands of an elite?

Consider four claims that provide an answer to these questions:

1. When research is selected for publication, this represents a claim by the scholarly community that the work meets appropriate intellectual standards.
2. These standards are themselves products of argument by researchers.
3. These standards are esoteric and require a long period of study and reflection to master. Mastery is best shown by success in publishing work that is recognized as excellent by other scholars.
4. Because the research process is esoteric, the public requires assurance that the research it is asked to consider in making judgments about education is work of high quality. Peer review provides this certification of quality.

These claims, if true, support a system of publication where what is published is chosen by self-perpetuating groups of experts. This process is not free of problems. Those with the power to determine what is published may use it to advance ideas or individuals they favor regardless of whether they are supported by the power of the better argument. The conscientious employment of intellectual standards requires that referees prefer those positions that are well argued even when they are not their own. In practice this distinction is difficult to make. Moreover, this system of judgment can be unreasonably conservative. Scholars may be slow to recognize work that is innovative, especially when this work requires reconsideration of their own or prevailing intellectual standards. If this system is to be defended, we shall not wish to claim that it is perfect, only that it is better than the alternatives. And we shall need to create institutions and practices that ensure that the process is as open and as fair as is possible. One such practice, for example, is that of blind refereeing.

Two corollaries of these arguments are as follows:

1. We should regard research products that are not refereed with skepticism and seek to ensure that work is refereed insofar as is practical.
2. We should protect the autonomy of the intellectual professions over the peer review process.

The reason for the first claim is, if the considered judgment of respected scholars is the basic mechanism to ensure the quality of research, then research that is not refereed lacks that assurance of quality. This claim needs to be carefully qualified. Work is refereed in various ways. The paradigm
case is the scholarly journal. Referees are generally selected for their standing in the field. But there are other mechanisms for refereeing work. Publishers of academic books often have the book (or sample chapters) read by experts and seriously consider their advice. Agencies of government that sponsor research often subject research reports to expert review. Even when research is not reviewed for publication, it is often subject to scholarly appraisal following publication.

Unhappily, many agencies that sponsor and disseminate research have interests that may be at odds with the peer review process. Book publishers generally need to show a profit. Even university presses often must be financially self-sufficient. Government officials and politicians may have favored policies. Advocacy groups have causes. Private research corporations must be concerned for the bottom line and may curry favor with sponsors. We should not assume that the individuals who run these institutions are ill motivated. Nevertheless, the kinds of bias noted previously are systemic in ways that are not true or are less true than for scholarly journals, and the culture of some groups who do or who sponsor research may be less than fully supportive of norms of objectivity and quality.

Given the complexity of those institutions that sponsor and disseminate research and the many forms that the peer review process can take, I have not argued that all research should proceed through a peer review process that is much like that of academic journals. I have said merely that when work is not peer reviewed it should be regarded with a measure of skepticism. If work that is not peer reviewed is also not made available in a way that permits scholarly examination, the level of suspicion should be considerable.

Intellectual standards are (ideally) generated by the conversations and arguments of those who are well-trained in some area of expertise. Indeed, the standards that govern a field and the freedom to make judgments on the merits of the work produced in a field according to these standards should be jealously guarded by intellectual professions. It is the control over intellectual standards that is the core of what I mean by the autonomy of the intellectual professions. It is central to any reasonable conception of academic freedom.

The autonomy of the intellectual professions may be put at risk by the relationships that researchers or the research community have with funding agencies. It is part of the responsibility of researchers to resist attempts by funding agencies to dictate or unduly influence the conclusions of research or the standards employed to judge it. Conscientious scholars and research institutions will decline funding with such strings attached. This is not to say that funders lack any legitimate interests in the research they fund. Funders are entitled to their priorities and their timelines. They are not entitled to determine the truth or curtail either scholarly or public debate.

The relationship between research communities and government may be especially worrisome, not because government is especially evil, but because it is powerful. Moreover, educational research does not command the respect that is commanded by the hard sciences. This may make it easier and more tempting for politicians to erode the autonomy of educational researchers. Given this, the growing insistence by the U.S. government that research that it funds or that is employed by those it funds be scientific research is worrisome, particularly insofar as a rather narrow conception of what is scientific is sometimes employed. It is worrisome both because the suggestion that the government is entitled to set intellectual standards for researchers is a dangerous president and because the determination of what educational policies and practices have scientific warrant provides an avenue for the politicization of research (see Manzo, 2003, for an example).

Many educational researchers will agree with the claim that research should be scientific. Nevertheless, the autonomy of the intellectual professions is a norm that all should accept because it is crucial to the quality and objectivity of research. Educational research is currently characterized by a state of epistemological pluralism. Researchers disagree sharply about what
is worth researching and what research methods are worthy. At the same time, the problem of epistemological pluralism has a preferred solution. That solution is that disagreement needs to be resolved by the discussions and arguments of the intellectual professions. When government agencies begin to significantly affect prevailing intellectual standards by taking sides in an ongoing argument, the process of rational deliberation about these standards may be truncated, distorted, or politicized.

We should distinguish two forms of epistemological pluralism. The first recognizes that different questions or different intellectual aspirations warrant different disciplines and different methodologies. Law, psychology, and economics are different and require different methods of inquiry. The second form of epistemological pluralism is more problematic. The term "paradigm" was popularized by Thomas Kuhn (1970). Roughly, a paradigm is an approach to the study of some range of phenomena that involves not only substantive commitments as to the nature of the phenomena of interest but also commitments as to how the phenomena are to be thought about. People with different paradigms can be expected to disagree not only about what is true concerning the phenomena of interest but also about such matters as what the boundaries of the phenomena are, how they are to be characterized, what is to count as evidence for claims about them, how evidence is to be collected, and what is to count as a good argument. Such disagreements run deep. Kuhn suggests that paradigms may be incommensurable. People with different paradigms see the world differently and lack common standards that allow them to resolve their differences.

The claim that paradigms are incommensurable is an overstatement. Hilary Putnam (1983) argued that there is wide agreement among moral philosophers on two points: (a) all moral reflection occurs within a tradition and (b) all traditions can be criticized. These two claims can be generalized to all forms of thought.

If so, then conflicts between paradigms can be resolved by argument. Nevertheless, the peer review process in education must contend with the fact that argument has not, as yet, resolved many such disagreements. The Preamble to Part IV of the AERA code of ethics says, "Editors and reviewers have a responsibility to recognize a wide variety of theoretical and methodological perspectives and, at the same time, to ensure that manuscripts meet the highest standards as defined in the various perspectives" (p. 101). Standard 1b of this section follows with the claim that "the set (of AERA) journals must be open to all disciplines and perspectives currently represented in the membership that support a tradition of responsible educational scholarship" (p. 102).

There is little difficulty in following these recommendations when the first type of epistemological pluralism is at issue. The more difficult problem concerns competition between incommensurable paradigms, for in these cases the standards according to which work is judged are in doubt. Here we should not take the stance that we must judge work solely by those standards to which the work itself appeals. That this is not what the AERA code requires is suggested by the fact that it refers to those approaches that maintain "a tradition of responsible scholarship." This implies that work may be judged not only by employing those standards to which it appeals but also by criticizing those standards. The cost of being unwilling to judge the standards to which academic work appeals is that we will be required to accept work embedded in irresponsible traditions so long as it is competent on its own terms. The difficulty, of course, is in distinguishing between responsible and irresponsible traditions.

Consider the following four points:

1. The peer review process must be open to innovative new approaches without lapsing into the form of relativism suggested by the notion that paradigms are incommensurable.
Hence, editors and referees must be open to epistemological innovation and may not employ their own standards as though there were no responsible alternatives to them.

2. Paradigm disputes should be resolved by argument. It is the responsibility of editors and referees to encourage such argument.

3. Openness to innovation requires editors and referees to be open to new approaches and standards; however, it does not require them to avoid all negative judgments about the merits of new approaches or to fail to take note of when an approach has lost the argument.

4. Judgments of the sort permitted in Point 3 are difficult and contentious. There are no criteria that can prevent error. Nevertheless, the best way to ensure that paradigm disputes are resolved by argument is to respect the autonomy of the intellectual professions.

AUTHORSHIP AND OWNERSHIP

The authorship and ownership of research products are often sources of contention between researchers and their students, between researchers and the institutions that employ them, and between researchers and publishing agencies. To look at some of the issues, let’s begin by analyzing a proposed rule for authorship and ownership: Those who produce research are both its authors and its owners. The proposed rule seems to appeal to a kind of general rule of property stated by Locke (1960). People achieve ownership of some product by mixing their labor with it.

This proposed rule won’t do. First, the notion of the production of research is unclear. Those who design and execute research might be viewed as the producers of research, but so might those who type and edit reports. Second, while authorship cannot be alienated, ownership of research products can. The author is not always the owner. Third, there are factors other than who produced a work that need to be considered in developing a view of ownership. Institutions and practices governing ownership must serve the goals of the research community. They must, for example, encourage quality and discourage secrecy.

The Preamble to Part III of the AERA code of ethics says, “Intellectual ownership is predominantly a function of creative contribution. Intellectual ownership is not predominantly a function of effort expended” (p. 75). The notion of intellectual ownership does not clearly state whether what is being discussed is authorship or ownership. One supposes that both are meant. Indeed, Part II suggests this more complex rule: Creative contribution to the process of the production of a work warrants authorship. The author of a work or product is the presumptive owner of that work or product unless ownership has been alienated by a proper and valid agreement. Why place this emphasis on creative contribution? One answer is that it is the creative contribution that is constitutive of research. People who type manuscripts assist in the research process, but they are not doing research. If so, then the issues that surround authorship normally concern what counts as creative contribution and the degree of creative contribution. Designing the research usually counts as a creative contribution; proofreading a manuscript does not. There are, of course, many borderline cases. Statistical consultation may or may not count as creative contribution. If the individuals who design a study consult with an expert who provides a response to a technical question, but who does not participate further in the design of the study, that may not count. It may count if the expert influences the overall design of the study.

There are cases where a significant creative contribution does not warrant authorship. Journal editors sometimes have a significant impact on the reworking of a piece of research, one that could warrant authorship were it to come from a colleague participating in the research. Similarly, an idea presented in a conference may be crucial to someone’s research, but authorship
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is usually not warranted. What these cases suggest is that the creative contribution that counts for authorship is involvement in the production of the research, not merely having an effect on it. Other contributions should, however, be acknowledged in the text of the research.

Advisors normally are not viewed as authors of their students' theses even if the students are developing an idea provided by the advisor. (At the same time, the advisor may be entitled to authorship of a manuscript that makes the same arguments or even incorporates some of the same text as the dissertation. This is to be determined by creative contribution.) When there is dual authorship, the authors should be listed in order of creative contribution. There is one case where the conventions are ambiguous. Where two or more authors make equal contributions, it is customary to list authors in alphabetical order. (Where several papers are produced by a team and where there is equal creative contribution, it is also acceptable to rotate authorship.) In these cases the order of authors may not inform the reader whether one author has made the greater contribution. Here it is useful to indicate how the listing of authors is to be understood.

It is obvious that decisions as to whether a contribution is a creative one and as to whose contribution is most important require judgments that involve some measure of subjectivity. Wisdom suggests that research teams agree on such matters in advance. Power and authority, however, are not grounds for authorship. That one researcher employs another or is the academic advisor of another is not, in and of itself, grounds for authorship or first authorship. Nor is the fact that one obtained the funding for a piece of research or the contract for the publication of a book. Indeed, it is unethical to sign a contract that requires that one be listed as an author of work to which one made no creative contribution. Authorship may not be misrepresented for commercial advantage even if all parties agree.

Authorship cannot be transferred to someone else even via a voluntary contract. The reason is that authorship is a statement as to who is responsible and, in cases of multiple authorship, who is predominately responsible for the work. Hence transferring authorship to someone else is to lie. A corollary of this is that when ownership of research is transferred, the new owner is not entitled to alter the contents of the work without the author's permission and without acknowledgment of the fact. Here too the problem is the misascription of credit and responsibility.

Accuracy concerning authorship is important not only as a matter of truthfulness and of fairness to authors, it is also important to the research process. Knowing who created a work may assist in the appraisal of a work. Knowing the identity of the author may help place a particular work in a context. It also permits other researchers to contact the author for inquiries or data. Finally, it serves the essential function of making possible accurate personnel judgments that are contingent on the quality and quantity of research possible.

Plagiarism, the theft of intellectual property, is at its heart, the theft of credit. It is to represent another's work as one's own. It is among the more serious of academic crimes, not only because it is a disservice to authors but also because the proper allocation of credit is essential to the proper functioning of research institutions. The theft of a research product apart from theft of credit (as when one copies another's work without paying for it) is also a crime, but it is not plagiarism.

Unlike authorship, ownership may be transferred; however, the author of a work or research product is its presumptive owner unless ownership has been otherwise allocated by a just procedure. A valid contract voluntarily entered into is the paradigm case of a just procedure. Among the more obvious examples are instances where authors sell their manuscripts to publishers, authors transfer the copyright for their manuscript to journals to facilitate publication, or authors transfer ownership to funding agencies in exchange for funding of the work. Contracts may also be implied or, at least not apparent. Universities whose facilities are used by researchers in doing their research legitimately may make a claim on royalties (although often they do not) and where patents are involved rather than copyrights, may claim ownership of the patent.
Often there are not clear and compelling criteria concerning who should own a research product when authorship is not the primary issue. Who owns the data generated by research projects? Imagine a case in which data was collected by a graduate student for a thesis done as part of a larger externally funded research project employing university facilities. Imagine also that this data has economic value. Who owns it? The student who collected it, the faculty member who obtained the grant, the funding agency, and the university all may make a claim. The validity of these claims can only be clearly determined by prior agreements or by the rules of the university. In the absence of such agreements and claims, there are not clear principles or common conventions about ownership. One can only hope that reason and good will may prevail.

It is permissible for those who create research to profit from their work. Because they are the prima facie owners, they may, consistent with applicable law and policy, enter into contracts for the work or its products. Among the norms that govern contracts are these: Contracts should be voluntary and transparent. There should be a reasonable quid pro quo involved. Parties should not be coerced or deceived. Apart from coercion or deception, what constitutes a fair agreement is to be determined by the parties, and what they have agreed to should prevail. It should also be noted that the authors of a work (or the creators of a data set) are, in virtue of their creative activity its presumptive owners. Those who provide resources to enable research may negotiate a share of the rewards of research or ownership of it. They may not, however, make a claim of ownership after the fact on the basis of having provided resources for it. Claims to ownership on the part of those who provide resources for creative work must be based on antecedent policy or prior agreements.

These policies and agreements should respect certain conditions. Academic freedom must be respected and secrecy avoided. Researchers should only reluctantly and for compelling reasons enter into contracts that are inconsistent with academic freedom and the public availability of their work. Moreover, they should not surrender control over their work under circumstances where its results are likely to be distorted or misused. Nor should they enter into agreements that erode the quality of their work.

Policies should generally seek to make research as widely available as possible. For example, policies or laws that require publicly funded research products to be in the public domain or which prevent researchers from copyrighting them are often counter productive. Publishers and journals often will not publish manuscripts that cannot be copyrighted. Both journals and commercial publishers need to be clear that they have legal permission to print a work. The transfer of copyright secures this. In the case of journals, holding the copyright also protects the journal and the field against the inefficiency of duplicative publication. Commercial publishers will not publish work from which they cannot profit. They too require the transfer of copyright. Hence a system in which ownership of a work can be transferred generally facilitates the availability of research products.

INDIVIDUAL AND SOCIAL BETTERMENT

The claim that researchers should contribute to individual and social betterment raises three questions to be addressed here: (a) How do we know what counts as betterment? (b) What is the role of research and researchers in decision making concerning what counts as betterment? (c) What kinds of practices and institutions enable researchers to serve their role in promoting betterment?

These questions can be particularly perplexing in societies, such as ours, that are characterized by durable pluralism (Rawls, 1993). People disagree about the nature of human flourishing
and about the nature of good societies. Since "durable pluralism" is both a description and a norm, researchers must be cautious not to use their positions to substitute their view of the good for that of others.

That we are committed to pluralism does not, however, leave us with nothing to say about betterment. Consider that liberal democratic societies are committed to certain principles that have "constitutional" standing. While these principles may be enshrined in a written constitution such as is the case in the United States, what I mean by constitutional principles refers to those principles that are central to a society's self-conception as to the kind of society it is. Liberal democratic societies are committed to various notions of human liberty, democratic decision making, and political and social equality. The exact meaning of these is, of course, a matter of some controversy. Nevertheless, such constitutional principles suggest the following about the idea of individual and social betterment:

First, decisions concerning the meaning of betterment should be made in ways that are consistent with liberal democratic principles. Such principles such as majority rule, the rule of law, political equality, and individual liberty must be respected. Educational decisions should be made democratically (Cutmann, 1987).

Second, the full realization of these constitutional principles has educational prerequisites. Schools have a responsibility to help individuals to secure what Rawls (1971) called the fair value of equal liberty and to promote equal opportunity. Constitutional principles help to define what counts as the ability to meaningfully participate in our society. Hence they shape the meaning of betterment.

Third, the educational system of such a society has some obligation to secure reasoned commitment to the society's constitutional principles and to create good citizens (see Callan, 1997; Curren, 2000; Gutmann, 1987).

Finally, the notion of individual liberty must constrain the kinds of assumptions researchers can make about what counts as individual betterment. It may be that the salvation of souls contributes to individual betterment, but a society that values religious liberty cannot dedicate its public educational institutions to such an end, nor can researchers commit themselves to it so far as they see themselves as servants of such an educational system. More broadly, the schools of a liberal democratic society should not be the instruments of cultural or religious imperialism or of the dominance of one segment of society by another. Moreover, in a free society, students have some right to shape their own conception of a good life. If so, schools must take care to respect and encourage individual deliberation on life choices (Brighouse, 2000). Thus the conception of the United States as a liberal democracy both shapes and restrains the goals that can define the idea of individual and social betterment.

If educational decisions should be made democratically, we need to reflect on the role of expertise and of research in democratic decision making. Consider a model of how we might think about this. one which I will reject, but its features are instructive. Suppose we think of the ends people pursue as preferences or tastes (as economists often think about them), and suppose that we think of preferences as beyond rational criticism. Moreover, people are entitled to their preferences. They have, as some economists (see Monk, 1990) claim, moral force. The role of economic institutions and government is to satisfy them, not shape them.

Because preferences are beyond rational criticism and have moral force, researchers cannot and should not make expert judgments about the merits of the preferences people have, but they may have much to say as to how these preferences are achieved. The role of democratic decision making in this picture is to aggregate preferences when they are not adequately served by markets and must be pursued through public action. Democratic processes are held to do this efficiently (and perhaps fairly), at least in comparison to other decision-making processes, because
the political processes of democracy tend to package individuals' preferences so that, while no one gets all that they want, as many people get as much of what they want as is possible.

This story helps to shape a vision of the role of the educational researcher. First, it denies to researchers a right to have a professional opinion about those goods that are sought through education. That is a democratic matter. Second, the researcher's role is to provide the technical means required to efficiently achieve such goals as democratic processes produce. Third, this view tends to suggest that legitimate forms of educational inquiry are limited to addressing empirical questions concerning means to ends and do not include the discussion of goals and aims. The role of scholars in disciplines such as history, philosophy, or law, whose work is often focused on ends, is diminished, as is the contribution of qualitative research. Hence this view tends to narrow the marketplace of ideas and the researcher's role in it. The public cannot have a rational debate about educational preferences because reason cannot get a grip on preferences. *Ex hypothesi*, the contribution of researchers to public debate, is limited because the questions addressed by researchers are entirely technical.

This view is, I believe, deeply flawed. A discussion of why would take us far a field. A few comments will have to serve. First, this view expresses the epistemology of a kind of positivism that has been widely discredited and largely abandoned even by its adherents (see Howe, 2003; Kelly, chap. 2, this volume; Phillips & Burbules, 2000) Second, the view dramatically underestimates the degree to which educational goals can be rationally and productively debated (Gutmann & Thompson, 1996). Consider, for example, that some preferences (e.g., to attend a segregated school) can be unjust. Even the language of the theory misrepresents the character of goals and moral norms. One may have a preference for pickles over olives. It is strange and misleading to think of beliefs in human dignity or equality or a desire to have art and music as a part of one's life as preferences as though these things cannot be chosen and cultivated for reasons (see Strike, 1993). Finally, the view creates an artificial distinction between ends and means which are often intertwined in language and argument. A useful example here may be the Coleman report (Coleman, 1968), a paradigm case of policy research the questions of which were structured by the assumption that it is unjust for one's life prospects to be determined by "accidents of birth" such as race or class and which prompted a debate about bussing and compensatory education in which moral norms, desired ends, and claims about means were thoroughly intertwined (see Strike, 1979).

These comments suggest another view that sees ends and norms as objects of rational debate and legitimates them as objects of scholarly inquiry. If goals and aims are legitimate objects of scholarly reflection as well as public choice, and if ends and means are woven together, then it becomes difficult to easily separate decision making into a democratic component to be decided by elected officials and their agents and a technical component to be delegated to researchers. If so, then educational research has a broader scope than the empirical discovery of technical means to achieve democratically chosen ends, and researchers have a responsibility to introduce their arguments and conclusions into the sphere of public debate.

This discussion suggests the importance of free and open debate and that such debate has two distinguishable roles. The first is to ensure the quality of the argument. Arguments are improved by careful examination and criticism. The second is to inform the public and to contribute to the process of democratic deliberation. It should be noted that the performance of these roles not only requires the protection of a free inquiry and open communication but also provides a compelling reason why researchers should avoid entering into arrangements that require secrecy.

At the same time the fact that educational researchers have a role to play in public deliberations about education is one reason why it should not be viewed as unethical for researchers to participate in advocacy research. Advocacy groups (organizations dedicated to a particular view or cause) often generate public debate and provide the resources to inform debate. They are an
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They may offer the researcher research support, income, public visibility, influence, and career advancement, but they may be more interested in advancing their cause than they are in the truth of the matter or the quality of public debate (see Viadero, 2002). They may embed the researcher in a culture where only one side of arguments is heard. Hence they may test the objectivity of the researcher. Researchers should participate in advocacy research only when they can assure themselves that they can maintain their objectivity, and they should not participate in advocacy efforts where secrecy is expected or where results will be made public only if they support preconceived views.

Educational researchers are often expected to serve the research needs of policymakers. This is both good and reasonable. It is a way for researchers to contribute to individual and social betterment. Moreover, university-based researchers often have both more expertise and more independence than do those employed by governmental agencies. Hence their research is apt to be of higher quality and more objective. However, the relationship between researchers and policymakers is fraught with moral peril, perhaps more so than the relationship between researchers and advocacy groups. The research done at the behest of policymakers is often not refereed. It is often "quick and dirty"—done under time pressures and poorly funded. Moreover, policymakers often ask researchers to evaluate or assist in the implementation of policies and programs in which the policymakers have a vested interest. They may be uninterested in funding research that might fail to support favored programs. The questions asked may be structured so as to assume the merits of current policy and policy aspirations. Most troubling is that, at the state level, those policymakers who fund research often have influence over the budget and reputations of the public universities in their states. Researchers may fear offending public officials, lest their access to funds and influence dry up. University administrators may be reluctant to have their faculties assume a critical or oppositional role, and policymakers are likely to look for sympathetic researchers.

Finally, it should be noted that researchers may have interests as a class that are independent of potential entanglements with government or advocacy groups. Even when they are not public employees, their positions and incomes depend on the public sector. They are members of educated elites. They travel in some circles and not others. They are likely to share the outlook of their class. They have a duty to understand and resist these sources of bias.

Researchers have a responsibility to do more than avoid participation in research projects where their objectivity is compromised, where secrecy is expected, or where negative results are apt to be suppressed. They also have an affirmative duty to encourage institutions that ensure the objectivity of research, and they have a duty of collective self examination that enables them to understand their own biases.

PROTECTING VULNERABLE POPULATIONS

This is an area that has been a matter of legislative concern and, where there are rules, researchers must follow them. I want to begin with some history of the issue. I then turn to a discussion of the Belmont Report, which discusses both basic principles for the protection of human subjects and the application of these principles.
Concern for the ethics of research on human subjects has its recent origin in the Nuremberg trials where the atrocities of Nazi physicians were exposed. The trials resulted in the production of The Nuremberg Code that asserts a set of principles that include the voluntary consent of the research subject, the notion that unnecessary suffering should be avoided, and that risk to a subject must be justified by the potential benefits of the research (see Katz, 1972; Kimmel, 1996). In the United States, impetus for legislative protection of human subjects was generated by exposés of the notorious Tuskegee studies where a large number of black men who had been diagnosed with syphilis were not treated so as to better document the development of the disease (Jones, 1993) and of a set of studies by the Energy Department which involved subjecting people to various forms of radiation (Kong, 1994). These cases involve experimental procedures with significant risk to their subjects. They also involved substantial deception and some measure of coercion. The Tuskegee study also was conducted on a population of poor and semiliterate Black men in Alabama in the 1930s. It is hard to imagine that racism played no role.

These are cases of medical research. Yet the behavioral and social sciences and educational research can raise questions. One case is Stanley Milgram's (1963) studies of the willingness of research subjects to inflict pain via electric shocks on research subjects who made feigned errors in a memory test. While no shocks were administered, subjects were deceived and some seemed to undergo considerable distress during the experiments. A second case involves anthropologist Herbert Wolcott's (1983) study of Brad, a young man he found living on his Oregon property. This study involved considerable personal interaction between Wolcott and Brad, who at one point tried to murder Wolcott and his partner. The relationship between Wolcott and Brad also involved a homosexual love affair. Both Milgram and Wolcott defend the conduct of these studies and both studies are generally viewed as having considerable academic merit. It is nevertheless doubtful whether either study could have been conducted today given current standards for the ethical treatment of human subjects. Milgram's studies raise both the issue of what counts as risk to research subjects and the issue of the degree of deception permissible to obtain useful results. Wolcott's work raises questions concerning the kinds of intimacy permitted between researcher and subject as well as questions concerning the boundaries between a scholar's personal and professional life (Dentith, 2003).

The Belmont Report, Ethical Principles and Guidelines for the Protection of Human Subjects of Research, is a report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (1978). The Commission was created by the National Research Act which was signed into law on July 12, 1974. The commission was charged to identify the basic principles governing the conduct of such research and to develop guidelines to be followed.

The commission asserted three basic principles along with three primary applications: respect for persons, beneficence, and justice. Their understanding of these principles and applications follows.

Respect for Persons

The commission claimed that respect for persons involves two subsidiary principles: "First, that individuals should be treated as autonomous agents, and second, that persons with diminished autonomy are entitled to protections." Autonomous persons are those who are "capable of deliberation about personal goals and of acting under the direction of such deliberation." To respect them means to give weight to their views and their choices. Those who are not autonomous are viewed as needing protection, presumably from their incapacity to make wise decisions about their own welfare. The nonautonomous include children, mental incompetents, and those
subject to significant levels of coercion, prisoners for example. Typically protection of the immature involves some form of paternalism. In education the usual form of paternalism is parental consent.

The primary application of the principle of autonomy is informed consent. Informed consent requires adequate information that is provided in such a manner as to be understood by the subject together with sufficient time to make a reflective decision. When the capacity for comprehension is limited, consent must be given by a responsible and competent third party who is legally entitled to decide and who will decide in the interests of the individual. Consent must be voluntary.

Beneficence

Beneficence is understood to be more than a supererogatory obligation to kindness or charity. It is an obligation that has been expressed in two (inconsistent) basic rules: Do no harm, and maximize possible benefits and minimize possible harms.

Beneficence requires researchers to assess and balance risks and benefits. Researchers are expected to make a case concerning the potential benefits of their work and the risks involved. Where risk is involved, this may require a consideration of alternative ways to achieve benefits. Justification must be presented to subjects as part of obtaining informed consent as well as to relevant review boards. Generally a potentially favorable balance of benefits over risks must be shown. The report provides the following considerations relevant to risk assessment: (a) Brutal or inhumane treatment is never justified; (b) risks must be necessary in light of the objectives; (c) if significant impairment may result, the burden of justication to the subjects is increased; (d) when vulnerable populations are involved their appropriateness must be shown; and (e) risks and benefits must be documented and employed in informed consent procedures.

Justice

Justice requires that benefits and burdens should be equitably shared. The report acknowledges the many difficulties involved in applying the standard of justice to research but places special emphasis on avoiding cases where populations who are vulnerable are employed as subjects in research that primarily benefits others or where the class of those who will benefit is much broader than the class from which subjects are selected. The Tuskegee study illustrates.

The selection of subjects must be just. People should not be selected because they are vulnerable or perceived as less (or more) worthy. Benefits and burdens should be equitably shared across lines of race, gender, class, and culture. Research should not add to the burdens of already disproportionately burdened populations.

While the Belmont Report applies both to medical and behavioral research, it may be that it is shaped primarily by the concerns of medical research. It omits from consideration concerns important for the protection of subjects in education. Hence I want to summarize (with some editing, interpretation, and reorganization) those provisions of the AERA code of ethics (see p. 44) that concern research populations.

1. Researchers must secure informed consent, including a disclosure of the purposes of the proposed research.
2. Researchers must provide for anonymity (where possible and appropriate) and confidentiality. Subjects are anonymous when their identity is unknown to the researcher. Confidentiality is respected when the researcher does not disclose the identity of subjects to others or, when the identity is known, does not reveal inappropriate information
about the subject. Because confidentiality may be difficult to protect in certain cases, subjects should be informed concerning the risks of identification.

3. Deception of research subjects should be avoided or minimized, and may be engaged in only when justified by the benefits involved. Subjects should be informed of any deception and the reasons for it in a timely way.

4. Researchers must respect the policies and research guidelines of those institutions in which they do research. They should be sensitive to religious, gender, and cultural differences. And they should respect the integrity of ongoing activities.

5. Subjects have the right to withdraw.

6. Researchers should not exploit subjects or coerce their participation.

7. Researchers should avoid treatments with harmful consequences, such as withholding some portion of the curriculum.

8. Researchers should adequately communicate their findings to research populations and stakeholders.

Human subjects are protected by both law and institutional policy. The Code of Federal Regulations regulates the protection of human research subjects (see http://www.fda.gov/ohrt/irbs/default.htm). With modest exceptions “this policy applies to all research involving human subjects conducted, supported or otherwise subject to regulation by any Federal Department or Agency which takes appropriate administrative action to make the policy applicable to such research.” Institutions covered by these regulations are required to have Institutional Review Boards (IRBs) who must approve research prior to its inception. Most institutions require that all research involving human subjects be reviewed regardless of the source of its funding. Within the boundaries of law, institutional policy may vary. Hence it is crucial that researchers understand and comply with the policies of their own institutions.

In what follows I take note of a few issues that are salient for education. First, educational researchers need to be sensitive concerning what might be construed as a risk in educational contexts. While usually educational research does not threaten injury or bodily harm, psychological harm is a concern. In addition, failures of anonymity or confidentiality threaten harms ranging from embarrassment to loss of reputation. In addition to harming individuals, institutions can be harmed. Research can be intrusive. It can disrupt classrooms or schools. It can damage reputations. It can fail to respect local policy. It can fail to be sensitive to the various forms of diversity found in schools. When research involves an experimental design, researchers must also take care that students are not assigned to any treatment known to be inferior. The requirement that harm be balanced against benefits raises additional issues. We not only need to be sure that the potential benefits outweigh possible harm; we must consider who are the recipients of benefits and harms. Using subjects from one population disproportionately for research that benefits everyone or using members of one group for research that benefits others is exploitation. Similarly systematically excluding a group from research populations may be unjust. Researchers need to take thought concerning the forms of harm their research can cause as well as the distribution of benefits and burdens.

The Preamble to Part II of the AERA code of ethics (AREA, 1992) contains this passage.²

Standards intended to protect the rights of human subjects should not be interpreted to prohibit teacher research, action research, and/or other forms of practitioner inquiry so long as: the

²There has been a revision of this passage since the publication of Strike et al., 2002. Hence the reference to the AERA Web site version.
data are those that could be derived from normal teaching/learning processes; confidentiality is maintained; the safety and welfare of participants are protected; informed consent is obtained when appropriate; and the use of the information obtained is primarily intended for the benefit of those receiving instruction in that setting.

Practitioner research raises several distinct problems (see Pritchard, 2002). One is that it is often less than clear as to when practice become research. Surely it is to be hoped that all educational practitioners will be reflective about their practice and learn from its results. When does reflection become research? When it is systematic? When it is intended as research? When it is written up and submitted? To whom? Suppose that a teachers wishes to report something he or she has learned ex post facto where at the outset no intention to do research had been formed. Is this research? Must consent be sought after the fact?

A second problem is that voluntary informed consent can be most problematic when one of the researchers is a teacher (see Pritchard & Koski, 2004). Suppose a teacher is unable to secure consent for one or more children in his or her class—must the research not be done? May those children for whom consent has not been secured be excluded from the class or transferred to another? Might parents fear repercussions if they withhold consent from their child’s teacher? Finally, action research, including that done by teachers, may be quite open ended. Action research, by its nature, may be reinvented in progress. Clarity in detail as to its purposes may be difficult.

This last difficulty is not unique to action research or to practitioners studying their own practice. It may be endemic to certain forms of qualitative research. Anthropologists, for example, may find that it is difficult to be clear as to the purposes of immersion in the culture of a given group especially if the model of clarity involves specification of hypotheses to be tested (see Shea, 2000). Moreover, the purposes of the research may evolve. Hence, if antecedent clarity of purpose is required for informed consent, this may be difficult to provide when research is open ended. The requirements for the protection of human subjects may burden some forms of research more than others.

One final issue: I argued previously for the importance of the autonomy of the profession. Does it follow that I should resist the regulations that have been developed to protect human subjects because they are externally imposed and have the force of law? It has been my experience that researchers often find compliance with these regulations both onerous and unnecessary. They often feel themselves to be trustworthy in these matters and would prefer that researchers be self-regulated.

I do not find this view to be sustainable. First, the kind of autonomy of the profession I argued for concerns the intellectual life and intellectual standards of the profession. This is the area where outsiders lack expertise but also often have powerful incentives to interfere. Second, the peer review system provides a successful and appropriate means for enforcing intellectual standards, whereas there is no comparable mechanism for the research community to enforce the ethical treatment of research subjects. Finally, IRBs are an enforcement mechanism that is rooted in the scholarly community and that encourages deliberation about and familiarity with appropriate standards. While the requirements for the protection of human subjects may be felt to be inconvenient, especially by those who would be conscientious independently of supervision, they address a real concern without eroding the autonomy of the professions inappropriately and should receive the research community’s support.

CONCLUSIONS

In this chapter I have taken a communitarian approach to educational research ethics. Essentially this means that, in considering the ethics of research, priority must be given to advancing the
aims of the community. The principal aim is to produce quality research that enhances the ability of the educational community to promote individual and social welfare. To take a communitarian approach requires that researchers examine their behavior in the light of the goals of the community. It also requires concern for the welfare of those institutions and practices that serve the community, and, hence, requires more than that individual researchers conduct their own research with integrity. Among those things that are paramount are certain "epistemological virtues"—a respect for truth, evidence, and argument, and a concern that outcomes reflect the force of the better argument rather than power. These virtues must be cashed out through practice and institutions. These include academic freedom and intellectual openness and a respect for peer review and for the autonomy of the research profession. They also require respect for epistemic diversity. Last, but certainly not least, researchers must respect the rights and welfare of research subjects and the institutions that have been put in place to secure them.

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REFERENCES

3. ETHICS OF EDUCATIONAL RESEARCH


