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In March of 2009, graduate student Julea Ward was dismissed from her counseling program at Eastern Michigan University (EMU) for violating professional codes of ethics, and an unwillingness to change her behavior (Ward v. Wilbanks, et. al., 2009). This important case has raised controversial questions about the interaction of personal beliefs, and professional codes of ethics. A basic review of the case details, examination of key points on both sides of the case, and consideration of input from all of the involved parties reveal the importance of codes of ethics, policies and procedures in higher education, and professional organizations.

According to the complaint filed by Ward's attorneys, while completing her practicum in February of 2009 Ward was assigned a gay client who wished to discuss relationship issues with a counselor. Ward spoke to her supervisor, Dr. Callaway, and requested that the client be referred to another counselor due to his sexual orientation (Ward v. Wilbanks, et. al., 2009). The client was referred, and Ward was asked to participate in an informal disciplinary review. An article in the Chronicle of Higher Education explains why, "In refusing to affirm the homosexual behavior of clients, Ms. Ward was accused of violating various provisions of the groups' ethics codes, including prohibitions against discrimination based on sexual orientation and an American Counseling Association rule holding that its members should not demonstrate 'an inability to tolerate different points of view'" (Schmidt, 2010). During the informal disciplinary review held February 3, Ward was given three options: to participate in remediation, to withdraw from the program, or to request a formal review.

Ward requested a formal review in writing on February 10, and the review was subsequently scheduled for March 10. She was informed of this schedule on February 19 via a letter that included explanation of the review process, enumeration of her specific violations,

and information about accessing additional resources (Ward v. Wilbanks, et. al., 2009).

Following the formal review, Ward received a letter dated March 12 which informed her that, "It was the unanimous opinion of the committee... that, by your behavior, you have violated the ACA Code of Ethics"(Ward v. Wilbanks, et. al., 2009). This decision initiated Ward's immediate dismissal from the program. On April 2, 2009, Ward filed a lawsuit against EMU, its board of control and president, involved faculty, and the student member of the formal review committee. Her complaint was heard in the United States District Court and subsequently dismissed by Judge George Caram Steeh (Starnes, 2010). An appeal was filed, and on January 27, 2012, the United States Sixth Circuit Court of Appeals agreed that her case should return to the District Court to be heard by a jury. The case is now on hold pending a new court date.

Each story has many sides attempting to decipher its facts, and the story of Ward's dismissal is no exception. On one side is Eastern Michigan University (EMU), the formal review board, and the department faculty involved in Ward's dismissal, and specifically, Ward's advisors Dr. Yvonne Callaway and Dr. Suzanne Dugger. The decision made by the review board was supported by the United States District Court. "Judge Steeh's ruling held that the policy at issue was not a speech code but 'an integral part of the curriculum,' and that Ms. Ward's dismissal from the program 'was entirely due' to her 'refusal to change her behavior,' rather than her beliefs" (Schmidt, 2010). This remains the position of EMU and the counseling department.

On the other side of the case, Ward and her attorneys are fighting the university in the media and the courts. In the letter Ward submitted to her Dugger to request a formal review, she describes herself as, " A Christian and (I) rely on the Bible as the source of my beliefs" (Ward v.

Wilbanks, et. al., 2009). Throughout that letter (included in the formal review transcript) and the rest of Ward's review, she is adamant that, "It would be a violation of my religious beliefs to be required to affirm or validate homosexual conduct" (2009). When she is questioned about other so-called sins condemned by the Bible, Ward repeatedly indicates that these would not interfere with her counseling any clients. The only issue she identifies as interfering is homosexuality.

Ward is being represented by the Alliance Defense Fund which describes itself on its website as, "a servant organization that provides the resources that will keep the door open for the spread of the Gospel through the legal defense of religious freedom, the sanctity of life, marriage and the family" (2012). The group is openly homophobic in its written materials and actions. For instance, an article on its website titled "The Homosexual Agenda: The Principal Threat to Your Religious Freedom" states, "If same-sex "marriage" is accepted by law... and God's plan for marriage is dismantled, then your religious freedom will... collapse" (2012).

With differing perspectives comes differing identification and definition of the issues surrounding a case. Ward insists that her First Amendment right to free speech was violated, as were her Fourteenth Amendment rights to due process and equal protection. According to the court complaint, the school's "actions... violate Ms. Ward's constitutional rights to free speech, free exercise of religion, freedom from retaliation for exercising First Amendment rights, equal protection of the laws, due process, and freedom from establishment of religion" (Ward v. Wilbanks, et. al., 2009). These accusations stem from Ward's assertion that her dismissal was the result not of a violation of a code of ethics, but instead due to department faculty's religious based discrimination against Ward's beliefs. Her legal team insists that the review was the result of the request for a referral, instead of being due to the discrimination behind Ward's request. In addition, they insist that the ACA code of ethics discusses the possibility of referrals and

therefore Ward did not violate the code of ethics. Therefore, Ward's team hopes to prove that she was punished for the referral and not the discrimination, and that the referral was not a violation. This opinion was summarized in the Detroit Free Press, "Rather than allow Julea to refer a potential client to another qualified counselor -- a common, professional practice to best serve clients -- EMU attacked and questioned Julea's religious beliefs and ultimately expelled her from the program because of them" (Ashenfeiter, 2012). The Sixth Circuit Court of Appeals sided with Ward on January 27, 2012, stating that a reasonable jury may find her claims credible, and sending the case back to be heard in the court where it originated.

Eastern Michigan University and its legal team feel differently. In the transcript of the formal review Duggar states, "It is my professional opinion that Ms. Ward is selectively using her religious beliefs in order to rationalize her discrimination against one group of people... Ms. Ward firmly indicated that she is unwilling to reconsider her willingness to counsel gay clients about relationship issues and because such behavior violates ACA's code of ethics" (Ward v. Wilbanks, et. al., 2009). This is further supported by a line of questioning during the review in which Ward was asked about other client activity that violates biblical mandate. Her responses indicated that Ward was not opposed to counseling other clients whose lives conflict with biblical rules or clients with differing religious views (even about the topics of religion and spirituality), and that she was singling out gay clients. This was noted by the appeal judge, who stated in his opinion, " Ward said that she could "set aside her religious values" and counsel clients about things such as "abortion, child abuse, and murder" but "could not set aside her religious values in order to effectively counsel non- heterosexual clients" (Polite v. Ward, 2012). This review was not the only time faculty warned Ward about her discrimination violating codes of ethics. In fact, both Ward and faculty members present indicated that this was a discussion

that had been ongoing during her time at EMU.

Learning the codes of ethics for one's future profession is an important part of higher education. Often, as is the case at EMU students are required to follow codes of ethics in order to participate in an academic program, especially during experiences such as practicums, internships, assistantships and fellowships. Codes of ethics are an important way for a professional organization to set standards and promote integrity throughout its field. The ACA identifies five main purposes to be served by its code of ethics, " enables (ACA) to clarify... the nature of the ethical responsibilities held in common... helps support the mission of the association... establishes principles that define ethical behavior and best practices... serves as an ethical guide and promotes the values of the counseling profession... (and) serves as the basis for processing of ethical complaints and inquiries" (American Counseling Association, 2005). Ward was informed of the code of ethics and expectation that she would follow it via the EMU Counseling Program's "Counseling Student Handbook" which she received before beginning the program. Specifically, chapter thirteen of this document is titled "Ethics" and specifically details the codes of ethics with which students ought to familiarize themselves (2007).

Codes of ethics, rules, policies and procedures are crucial to the operation of any institution; having these requires record keeping and notification of affected parties, as well as equal application of each rule. Based on these expectations, Ward's team maintains that she did not receive the equal protection guaranteed under the Fourteenth Amendment of the United States Constitution. These claims stem from the assertion that Ward was subjected to review for the referral, not the discriminatory feelings she holds that led her to request the referral. If this can be proven in court, Ward may have a case because there was no history of students being reviewed as the result of requesting a referral. This issue will depend heavily on the jury's

perception. If they perceive that she was singled out for making a referral due to her religious beliefs, then they may rule in her favor. On the other hand if the jury views the review as stemming from Ward's discrimination, which violated the code of ethics, they may rule in favor of the university.

Finally, there is the question of Ward's First Amendment right to free speech. Throughout the review process, she asserted time and time again, "It would be a violation of my religious beliefs to be required to affirm or validate homosexual conduct" (Ward v. Wilbanks, et. al., 2009). In addition, her legal team cites her right to free speech as reason enough to release her from the requirements of the ACA code of ethics. However, in the appeals opinion Judge Sutton makes two points about this. First, "A school need not tolerate student speech that is inconsistent with its basic educational mission" and second, "A prospective university student has the capacity to learn what a curriculum requires before applying to the school and before matriculating there. When a university lays out a program's curriculum or a class's requirements for all to see, it is the rare day when a student can exercise a First Amendment veto over them" (Polite v. Ward, 2012). This is consistent with the view of the lower court, which stated "The University 'had a right and duty to enforce compliance' with professional ethics rules barring counselors from being intolerant or engaging in discrimination, and no reasonable person could conclude that a counseling program's requirement that students comply with such rules 'conveys a message endorsing or disapproving of religion'" (Schmidt, 2010). Since the two courts were in agreement on this issue, and there is significant precedent supporting the university it is unlikely that Ward will be successful on this front.

In March of 2009 Julea Ward was dismissed from her counseling program at EMU for violating professional codes of ethics, and an unwillingness to change her behavior.

Nearly three years later, the case is still tied up in the courts. This important case has raised controversial questions, but one thing is clear: the establishment of codes of ethics, policies and procedures in higher education and professional organizations is crucial to their operation. These details govern both students and professionals, and in the end, the rules are the decision makers.

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