

## CAN YOU SANCTION A STUDENT FOR LYING IN A CAMPUS HEARING?

BY: CHRISTOPHER SCHMIDT

How many times have you met with a student and asked him or her a question, received a response and then later found out that the student was lying? Why did the student lie? Was it to not get in further trouble or to protect a friend? Was telling the truth more difficult?

Obviously, this is something we all have experienced at one moment or another. Most student affairs professionals find it frustrating and at times, annoying. Even with our good intentions and educational mission, we are continually challenged by the individual interest of the student which is often in conflict with our process. The conflict is always there, but what can we (or should we) do about it? In this article, I will discuss aspects of whether we can sanction a student for such dishonesty and follow that with whether we should and how.

I recently participated in a NACUA Webcast presented by Ed Stoner and John Lowery, discussing their revised model code. One of the many excellent points presented was about institutional due process and “doing what we say we will do.” One of the most important factors to consider in this discussion is your own student conduct code. First and foremost, if you do not follow what your code says, the fact that the student lies to you will be the least of your concerns. The implications both from a legal and educational standpoint are too great to ignore this rule. What does the code say about lying within conduct proceedings? Can a student be accused of a violation for lying in a campus hearing? Your student conduct code will dictate what is considered appropriate behavior, helping to determine the culture of your campus. If your policy does not prohibit lying or providing false information in conduct proceedings your options for holding that student accountable may be more limited.

If your code does not currently contain a provision about this issue, I would highly encourage you to review your conduct code and consider adding such a provision. The model code specifically states “17 b. Falsification, distortion, or misrepresentation of information before a Student Conduct Board” (Model Student Conduct Code, Journal of College and University Law, Vol. 31, No. 1, 2004). There are also several schools that contain provisions in their code as well and would be useful to examine. Each either speaks specifically to lying to a conduct body or providing false information to university officials. It is also important to consider whether your code outlines an expectation that students participate or cooperate with your university processes, including the conduct process. The benefit of doing so is that not only is there the concept that truth is cooperative, it help to create a culture on your campus that supports student civic engagement, ultimately preparing the student for the “real world.”

Another factor to be considered with your code is the process of dealing with the lie. If your student conduct code defines specific procedures for this type of situation, you should obviously follow them. If not, you need to decide the best manner for tackling the

problem. Is it a situation where the student, following a conduct meeting, needs to be noticed with another violation of the code? Or, if found responsible on the original complaint, can the student just be sanctioned for the original violation and for lying? Best practices suggest that if you want to hold the student accountable for the original policy violation and for the policy violation of lying, you must give them advance notice of the accusation of lying, and then a hearing on that violation as a separate and distinct decision from your finding on the original violation.

If, however, you are not going to process the lying as an additional violation, it is permissible to sanction the student more severely for the original violation because you did not believe them in their testimony about it. In the former approach, you are sanctioning separately for a separate violation. In the latter, you are enhancing the sanction because the student's version of events was not credible to you.

You have determined what your student conduct code will and will not allow, and you determine that you can sanction a student for lying. What kind of sanction would be appropriate? I think you first need to figure out why the student is lying. From a developmental perspective, our students are often challenged by the fact that sometimes, in order to tell the truth, they have to "rat out" their friends. This is a difficult thing to do, particularly when you consider that the student's still-forming identity is inexorably linked to their circle of friends and their cliques. Who they are is sometimes about who they "hang" with. Our challenge then is helping them to better understand a sense of community identity, where lying is not appropriate and does not support an educational mission. There is also a need to help the student understand concepts of independence and interdependence, acknowledging that while they are linked to those they care about, they are also individuals with responsibilities to themselves.

Additionally, a student is considering self-preservation, thinking continually that "I just don't want to get in trouble and maybe if I lie, I will get out of this mess." There are developmental issues to be considered here as well, particularly the student's growing sense of independence from their families and the feeling that they can handle challenges. This is something that should be nurtured, as the student will be handling the situation, but it does not have to be nurtured by allowing the student to lie. Recognition of the rights and responsibilities of "adulthood" is key here.

The student might also be trying to invoke freedom from self-incrimination, thinking perhaps that it includes the right to lie. Not being a lawyer, I simply read what the 5<sup>th</sup> Amendment says. Campus conduct proceedings are not criminal cases and consequently, the 5<sup>th</sup> Amendment (in my opinion) would not apply. University conduct proceedings are administrative and, while they might mirror criminal or civil proceedings, they are unique and not part of the criminal justice system where the 5<sup>th</sup> Amendment would apply. More importantly, lying is a *choice* to falsify information; it does not mean that the student has been compelled to say something. A student can certainly choose to say *nothing* at all, particularly if they have a pending criminal or civil proceeding ongoing. Many schools however will include in their code that the conduct officer can make a decision without the student or in the student's absence. This is something that the

student should be made aware of prior to the meeting and reinforced in those “moments of silence.” Lying is another issue.

Once you have determined the “reason” or purpose behind the lie, you can consider the sanction. I think there are numerous appropriate options available. The format for considering these ideas is equally varied. It could be a very specific group of questions, aimed at personal reflection. It could also come in the form of research that the student does, increasing their knowledge of the community outside the institution.

While it may not be listed specifically in a decision letter as a sanction, you could consider asking for an apology. If you are sitting in a conference with a student and you determine that they are lying, you can confront them on it. Asking them to apologize is perfectly appropriate in the moment and can serve as a great educational and conversational piece. The mere act of apologizing face-to-face is huge and causes an extremely personal reaction for both the student and the conduct officer or board member. It can be very powerful and a great learning tool.

As for a sanction that might be included in the decision letter, a written apology could be valuable for the same reasons. You could also consider challenging the student around life-long learning – what would it be like if you lied to your boss? What if you falsified information on a report you were writing? Ask them to explore their understanding of academic honesty and the consequences for their success at your institution. What if you lied to your professor about doing homework on your own? The student could also be asked to think about their civic duties. What would be the consequence if you lied about the same situation in your pending criminal process? Finally, and similar to the very personal apology to the conduct officer, you could have them seek to better understand their familial relationships. Ask the question: do you lie to your parents/guardians and if so, what is the impact of that?

Should a student be sanctioned for lying? I think so, absolutely. If we teach our students that lying to us is ok, then 1) how are we truly holding them accountable and 2) what culture are establishing on our campuses? It is very easy to lie and sometimes the ease of lying outweighs the consequence of doing so. The impact of a lie is often hard to see upfront, but long term effects are very real and patterns of behavior can emerge very quickly. I do not want to turn this article into the philosophical discussion of lies, but student affairs professionals who do not consider what a lie is and how it can hinder their developing students are doing them a disservice. Thomas Jefferson once said of lying that “[h]e who permits himself to tell a lie once, finds it much easier to do it a second and a third time till at length it becomes habitual.” I would argue that truth is similar. Truth is a habit that is developed through constant practice, continual dedication and conscious devotion.

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