The Importance of Process in
Campus Administrative Decision-Making

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William A. Kaplin
Professor of Law
Catholic University School of Law
Washington, D.C. 20064
(202) 319-5140

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The Importance of Process in Campus Administrative Decision-Making*

William A. Kaplin**

In addressing this topic, I have had two objectives in mind. First, I have sought to provide a forward-looking perspective that will assist colleges and universities in preparing for the 21st century. Second, I have sought to tie together or cut across the various subjects that administrators confront, and the various functions that they perform, on their campuses. These two considerations merge in my topic, "The Importance of Process in Campus Administrative Decision-Making." The key word is process. I intend to sharply distinguish the process of decision-making from the substance of decision-making. By substance, I mean the results or outcomes of decision-making. By process, in

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** Professor of Law, Catholic University; Distinguished Visiting Scholar, Institute for Higher Education Law and Governance, University of Houston Law Center, Fall 1991.
contrast, I mean the structures, mechanisms, methods, and procedures through which decisions are made. Suppose I were to ask an administrator, "What did you do about those cheating problems on your campus?" She might respond, "We suspended seven students for cheating on exams, and we amended our academic honor code." That would be an answer emphasizing substance. Alternatively, she might answer, "We held adversarial hearings for the students accused of cheating, and we established a task force to propose amendments to our academic honor code." That would be an answer emphasizing process. I ask you to consider administrative decision-making from the latter perspective. I ask you to focus, in short, on the means rather than the ends -- on the journey rather than the destination. As one commentator has stated in an analogous context, "the ways in which legal processes define participants and regulate participation, not just the rationality of substantive results, must be considered when judging the legitimacy of public decision-making" (Mashaw, pp. 161-162).

My inquiry into process focuses on the internal governance of the campus -- the formulation, implementation, and enforcement of the rules and policies that govern the campus community, especially the student population. Within this context, my emphasis is particularly on decision-making by campus administrators or managers, rather than by trustees, faculties, or student government organizations.
Thus far, I have discovered little higher education scholarship on point to my topic. There are, however, small but growing bodies of scholarship in the fields of legal process, administrative law, and public policy theory that speak to related concerns in public decision-making, and that I have drawn upon and adapted to my topic. My inquiry emerging from these resources is a preliminary and tentative one -- a work in progress. I encourage further dialogue on this topic, and I invite comments and suggestions on relevant resources and further avenues of inquiry.

By way of illustration, consider the following scenarios.

Institution A promulgates a policy on student demonstrations that subsequently is discovered to have major legal defects. The legal aspects of the policy had not been seriously considered during the decision-making process. The policy is later invalidated by the courts.

Institution B promulgates a new policy on hate speech. The policy drafters had insufficient information on the underlying causes of hate speech and on the campus community's particular experience regarding hate speech. Being uninformed and unresponsive to the real problems, the policy is not respected and is soon withdrawn for reconsideration.

Institution C, over the summer, promulgates a new policy on visitors and overnight guests in campus dormitories. When the students return to campus, they vehemently oppose the policy because they had no opportunity to participate in its
development. The student opposition forces cancellation of the policy.

Institution D promulgates a new policy on sexual harassment of and by students. Little thought is given to funding and staffing needs or to the procedures and mechanisms for implementing the policy. Attempts at implementation are awkward, incomplete, and inconsistent. Administrators eventually shift their efforts to other priorities, and the policy is ignored.

Institution E investigates the problem of date rape on campus. Through interviews, questionnaires, and review of student records, considerable information is obtained and published in a detailed report. Much of this information is personal information about particular individuals. It is widely believed that confidentiality has been breached and that students were treated rudely and offensively during the investigation. As negative reactions spread on campus, the reputation of responsible administrative offices suffers.

Institution F holds a disciplinary hearing on a charge of sexual harassment. No one disagrees with the finding of culpability. The process for filing the charge was cumbersome, however; the hearing process was very slow; and no guidance or counseling was offered to the student victim. As a result, students distrust institutional efforts regarding sexual harassment and are reluctant to bring complaints to the attention of administrators.
Institution H takes action regarding an allegedly racist incident that occurred during a fraternity-sponsored function and which was vigorously condemned by minority students and student organizations. After a brief hearing, two fraternities are suspended for a year. Fraternity members believe their actions have been misconstrued; minority students are upset that their concerns have not been fully appreciated. Friction among the groups increases, and the racial climate on campus deteriorates.

All of these scenarios share a common theme. All involve defects in institutional decision-making. In each instance, the defects are process defects. Better decision-making processes, in each scenario, could have avoided the problems that arose in the wake of the decisions.

There are many types and manifestations of process that may be important to colleges and universities, some but not all of which are suggested by the above examples. To aid understanding, I have devised a process taxonomy with six generic classifications. All processes that are or may be employed in administrative decision-making should fit within one, or a combination of, these six classifications: (1) rule-making processes, (2) adjudicatory processes, (3) mediation processes, (4) implementation processes, (5) investigatory processes, and (6) emergency processes. It is important to understand the differences among the six classifications and to understand the functions that each type
of process may perform.

The first classification, rule-making, encompasses processes for formulating general institutional policy. Rules, regulations, and other such policy statements establish principles or standards that prescribe or guide future conduct and are binding on the entire campus or some portion thereof such as the student body. Task forces, committee hearings, open forums, and student government activities are all examples of processes that may be used in rule-making. An institution may create or amend its rules either to implement some policy goal of the institution's own choosing or to implement new legal requirements imposed upon the institution from external sources.

The second classification, adjudication, encompasses processes used to apply and enforce institutional rules and regulations. Adjudication thus is one means for particularizing the general policies that may be adopted through rule-making. Adjudication generally requires two or more identifiable disputants or parties, and a neutral decision-maker who has authority to reach a decision binding on the parties. The parties typically present evidence and argument for their respective sides, and the decision-maker determines which side prevails -- thus producing a winner and a loser. A disciplinary hearing on a charge of student misconduct would be a typical example of an adjudicatory process.
Unlike rule-making, which prescribes or guides future conduct, adjudication establishes consequences for past or present conduct. Whereas rules establish general, and generally applicable, principles or standards, adjudications produce case-by-case, ad hoc decisions specific to a particular situation and usually binding only on the parties. In the long run, however, adjudications may also become an important vehicle for institutional policy-making, since particular adjudicatory decisions may have precedential effect in later adjudications and thereby help establish a kind of common law, or custom and usage, for the campus.

The third classification is mediation processes. They are informal, usually voluntary, processes that may provide an alternative to adjudicatory processes for certain types of disputes, or that may be used when there is a live dispute but no violation of institutional rules that would trigger adjudicatory processes. Mediation may be used for disputes between students, between student organizations, and between a student or student organization and an administrator. Examples might include roommate disputes, disputes regarding use of meeting rooms and other campus facilities, and various student misconduct disputes.

Mediation has gained visibility and respect in recent years as part of the ADR (or alternative dispute resolution) movement. Like adjudication, mediation involves two or more disputants and a neutral third party to assist decision-
making. Unlike adjudication, however, the third party has no power to decide the dispute or to impose a particular solution on the disputants. Rather, the third party guides negotiations between the disputants and facilitates a consensual resolution of the dispute. The end result is a written agreement between the disputants that is molded to their particular needs and interests. Mediation, then, is not a win-lose situation like adjudication, but a search for mutual interests that will provide a basis for agreement -- in other words, a win-win situation. Mediation thus can be a constructive, affirming process that supports continued relationships between the parties.

In addition to its role in resolving disputes between individuals, mediation may also be suitable for certain larger issues involving multiple parties or interest group clashes. Such mediation, sometimes called "public issue mediation," usually entails issues of institutional or public policy that transcend the particular interests of individuals.

The fourth classification is implementation processes. They are used to implement decisions reached through processes in the first three classifications -- that is, to implement rules, adjudicatory decisions, and mediation agreements. The focus of implementation is not on formulating decisions but on putting them into effect. There is considerable variation among implementation processes. Implementation of a new rule will differ greatly from implementation of an adjudicatory
decision; implementation of an adjudicatory decision will differ from implementation of a mediation agreement. Of the three, rule implementation is likely to be the most complex process and also the least understood. As one commentator has noted, there is a "collective ignorance about why the implementation, or carrying out, of public policies occurs as it does [and about]" the general characteristics of the process . . ." (Goggin, et al., p. 8). Processes for implementing rules may include such matters as developing guidelines, articulating objectives, disseminating information, appointing or training personnel, establishing institutional priorities, determining the authority or jurisdiction of responsible administrators, and evaluating the effectiveness of the policy as implemented.

The fifth classification is investigatory processes. The focus here is on the collection, marshalling, and evaluation of facts and opinions. The primary task is to discover and to inform, rather than to make formal decisions as such. Thus investigative processes differ from the first three types of processes -- rule-making, adjudication, and mediation -- in that the purpose of these other processes is to make decisions and resolve disputes. Investigatory processes also differ from the fourth type of process, implementation, in that investigation may precede and feed into rule-making, adjudication, or mediation whereas implementation processes typically follow these other three types. Investigatory
processes may also stand on their own, apart from the other types of processes. An investigation, for instance, may reveal that a perceived campus problem does not rise to the level of concern originally anticipated and requires no further action, or may provide information that permits individuals or groups to resolve problems informally on their own. Investigatory processes may be used to explore a particular incident, such as an alleged racial incident in a dormitory; to explore a problem area within a particular office or activity -- for example, repeated claims of sexual harassment in an ROTC unit; or to explore a more abstract concern, such as the level of cross-cultural understanding among undergraduate students.

The last classification is emergency processes. These processes focus on planning, communication, and decision-making during a campus crisis. Emergency processes are, in effect, processes for crisis management. They are resorted to when the other five types of processes do not fit or cannot be made to work fast enough due to the unique circumstances or time pressures of the situation. Examples of such emergencies may include a building takeover by student protesters, a dormitory fire, a suicide or murder, an environmental disaster in a laboratory, or a hurricane or other natural disaster. Emergency processes may encompass such matters as allocation of decision-making authority during the emergency, coordination among campus offices or officials, dispelling
rumors and disseminating accurate information and advice, provision of emergency resources and services, media and public relations, damage control and assessment, and debriefing at the conclusion of the emergency.

These, then, are the six classifications of process applicable to administrative decision-making. Why is it so important to understand these types of process and the differences among them? Why is it so important to sensitively employ process considerations in the administration of your campuses? One answer -- perhaps the answer most of you would give to my question -- is that good processes contribute to good results. The better the process, the greater the likelihood that the result will be factually accurate, or that it will be legally sound and beyond successful challenge, or will be consistent with good educational or public policy, or will otherwise be just to the individuals involved. These, of course, are extremely important goals and provide a most important reason for concentrating on process questions. Factual accuracy is important, for example, "because it tends to prevent arbitrary, callous, and perhaps preventable mistakes or omissions, toleration of which would reflect a view that the individual is unimportant, and that what really counts are values borne out of expediency, convenience and ease of administration" (Saphire, pp. 119-120).

But achieving good results is not the only reason to concentrate on process. There are other values at stake apart
from the values of good results. As Professor Robert Summers has emphasized, "A legal process can be good, as a process, in two possible ways, not just one: it can be good not only as a means to good results, but also as a means of implementing or serving process values . . ." (Summers, p. 4). Professor Jerry Mashaw also emphasizes such process values, which he describes as "values inherent in or intrinsic to our common humanity . . . which might be nurtured or suppressed depending on the form that . . . decision-making takes" (Mashaw, p. 162). Professor Summers identifies "participatory governance, procedural rationality, and humaneness" as examples of process values (Summers, p. 4); Professor Mashaw identifies "autonomy, self-respect, [and] equality" as general examples (Mashaw, p. 162). The importance of such values, and their relevance to your work on campus, should be obvious. It should also be clear that you must do more than achieve good results to fully protect these values. As Professor Summers notes, "These forms of goodness are attributable to what occurs, or does not occur in the course of a process. They are thus process-oriented, rather than result-oriented. For example, a feature of a process allowing for participation by interested parties is generally good for that reason, apart from whether in the end it also contributes to good results" (Summers at pp. 13-14).

Let us consider an example. Let us consider participation as a process value. A rule-making process may
or may not provide for meaningful and widespread participation by the students potentially affected. Holding a campus-wide open forum on proposals for rules would nurture participation; declining to disseminate information about rule-making initiatives and proposals would suppress such participation. Similarly, an adjudicatory process may or may not provide for substantial and timely participation by persons charged with disciplinary offenses or by witnesses to such events. Providing an advisor for the charged student, or institutionally facilitating the appearance of witnesses, would nurture participation; declining to do these things would suppress it. A rule-making or adjudicatory process that suppresses or discourages participation would, to that extent, lack process value. As Professor Mashaw explains, "Our self-respect is called into question not only when our rights are affected by proceedings to which we are not admitted, but also when we are excluded from a process of social decision-making that defines or elaborates the set of rights we all hold" (Mashaw, p. 178). This is because, as another commentator explains, "the opportunity for personal participation is the best assurance that the individual will understand what is about to happen to her and why, and is the essential prerequisite for satisfaction of the innate need to be treated as a responsible and independent human entity" (Saphire, p. 152).

Another process value, closely related to participation,
is the value that Professor Mashaw describes as "process equality" (Mashaw, p. 175). To nurture this value, a process should assure that no "person's or group's contribution (facts, interpretation, policy argument, and so on) is entitled to greater respect than another's merely because of the identity of the person or group . . ." (Mashaw, p. 173). Yet another process value, sometimes existing in tension with participation, is privacy. While participation enhances a sense of community in the individual, privacy assures that the individual may retain a reasonable degree of personal autonomy. A process that nurtures the privacy value would assure that individuals are not forced to participate in ways that they choose not to or, in particular, that the individual's private space and private thoughts are respected and his or her confidences are maintained.

Having in mind this multi-faceted importance of process, and having an understanding of the six classifications of process, we are led to the next inevitable question. What makes a good process? If process is as important as I suggest, you will want to be sure that every process you use is a good one. How does one make that judgment? What are the attributes that characterize a particular process as a good process? What criteria might we adopt that will help us answer such questions?

We already have a general answer to these questions. A good process is one (1) which facilitates one or a particular
combination of the six generic functions of process; (2) which promotes good results; and (3) which, independent of results, promotes process values.

From the foundation of these three criteria, various sub-criteria may be developed, each of which is responsive to one or more of the three general criteria. Regarding facilitation, there would be sub-criteria for determining whether the process achieves the purposes of rule-making, adjudication, or some other function of process. Regarding good results, there would be sub-criteria for determining whether the process promotes factually accurate results, legally sound results, results consistent with good educational policy, and so forth. Regarding process values, there would be sub-criteria for determining whether the process promotes participation by the persons affected, provides process equality, protects privacy, and so forth.

Since the specific characteristics of a good result will vary somewhat among the six classifications of process, as will the process values at stake, the specific sub-criteria to be applied will depend upon the particular process being evaluated. The more specific we are about the type of process to be used and the subject matter to be addressed, the more specific we can be about valuative criteria. For illustration, consider rule-making. Suppose your institution wishes to develop rules or policy regarding hate speech, or date rape, or sexual harassment or some other pressing problem
on campus; and you are considering what specific process to employ. The criteria to apply in such a situation might include the following:

1. The process must include steps that progress toward and will likely result in the production of rules or policy of general applicability.

2. The process must facilitate the collection and consideration of concrete information concerning the extent of and manifestations of the problem on campus, so that the problem may be addressed in terms most meaningful to the campus and the rules may be crafted to fit the campus's particular reality and experience.

3. The process must facilitate the objective use of relevant higher education and social science research to inform decision-making.

4. The process must serve to identify and weigh the values and interests underlying the problem to be addressed, especially values and interests that may be in conflict with one another.

5. The process must provide for appropriate participation by administrators, faculties, and others on campus with governance authority regarding the issues at hand.

6. The process must take account of the institutional mission and goals as well as institutional resources, both human and financial.

7. The process must serve to identify and resolve legal
considerations that may affect the validity of the rules to be promulgated.

8. The process must include opportunities for meaningful participation by, and dialogue among, students and student groups that will be affected by any rules or policies that are promulgated, and must accord equal access and equal respect to all such individuals and groups.

9. The process must maintain the confidentiality of personal information that is collected and otherwise protect the privacy interests of those participating in or affected by the process.

Similar statements of specific criteria may be developed for each of the other five classifications of process.

When such criteria are applied to a particular process -- either an existing process or one to be designed -- it is important to focus on what Professor Summers calls the "operational features of the process" (Summers, p. 15). The question would be: what specific features must the process include in order to meet the applicable evaluative criteria, in the context of the particular problem that the process is addressing? As Professor Summers notes:

The overall goodness or badness of a process is a function of specific evaluations of the various features of that process. Those features can be found in the rules and other prescriptive legal
norms that constitute and regulate the process. Thus, for example, important process features are specified in rules which provide:

1. How the process is to be commenced and who is entitled to commence it;
2. What stages the process is to go through;
3. The various activities that are to occur at each stage;
4. Who is to participate at each stage and what activities the participants are to perform;
5. Whether there is to be any review of the workings of the process, or any veto of its outcome . . . [and so forth]" (Summers, p. 8).

Asking and answering questions such as these will add a concreteness to any effort to analyze or evaluate a process.

Let me conclude with two suggestions on how administrators may make practical use of these various process considerations on their own campuses. First, an administrator could pause, before embarking upon each major decision-making initiative, and ask: What process should be used here? Is there an existing applicable process? Is it a good process?
Second, and more broadly, an administrator could do what I call a "process audit" of the functions of his or her administrative unit or office. A process audit might encompass the following six steps, each of which I will state in the form of a question:

1. What are the major types of problems, issues, and disputes that fall within the responsibilities of your office?
2. What processes are used to deal with these problems, issues, and disputes?
3. What are the operational features of each of these processes?
4. Do these features, cumulatively, usually produce the intended results?
5. Do these features, individually and cumulatively, achieve good results?
6. Do these features, individually and cumulatively, promote relevant process values?

Whether colleges and universities pursue these suggestions or others, my plea is to make the remainder of this decade the decade of process. Measure accomplishments not only by the results they achieve but also by the processes used to achieve them. Never undervalue the importance of process, either as a means to achieve good results or as a means to foster process values apart from results. At the
same time, do not overreact to process concerns by burdening decision-making with so much process that all sense of efficacy or timeliness is lost; and do not misuse process by hiding behind it as a way to avoid making decisions. A balanced and sensitive use of process is the key -- a use based on a sound understanding of the six classifications of process and the roles they play, a sound understanding of the distinction between process and substance, and a conscious attention to process values. The importance of process, used in this way, will be evident not only in the effectiveness it adds to an institution's administration, but also in the impetus it provides for honoring and protecting the individual worth and dignity of every member of the campus community.
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