

Review of *The Rights and Responsibilities of the Modern University*
Lance Watson
California Maritime Academy
lancewat@gmail.com

Bickel, R.D., & Lake, P.F. (1999). *The Rights and Responsibility of the Modern University: Who Assumes the Risk s of College Life?*. Durham: Carolina Academic Press.

Institutions of higher education have evolved when it comes to issues of student rights and safety and should seek continued opportunities to learn more about these areas. As society becomes more litigious, administrators and practitioners should work to better understand the effects law and liability have on their institution. *The Rights and Responsibilities of the Modern University* provides historical perspective on the legal evolution of institutional responsibility for its students as well as provides current models and best practices for administrators and practitioners.

The text traces the legal and historical progression of responsibility within an institutional setting. Beginning with in loco parentis, the book discusses the universities' initial limitless power over students and its substantial protection from legal repercussions. However, as students began to sue institutions and win their cases, the concept of individual student freedom arose within the university. In response, institutions took a "bystander" approach, in which universities were no longer liable for student injury because of courts viewing students as completely free, uncontrollable entities acting within the institutional setting. This perspective alleviates any liability or responsibility of an institution to regulate and preserve campus safety.

However, this "hands off" approach is soon changed as communities and students seek to partner with institutions to ensure the security of the members of the campus community. What evolves is an "institutional duty to care" along with a balanced view of institutional authority and student rights culminating in a shared vision of responsibility. Finally, we reach the current "facilitator model" found today in higher education. Within this model, universities, students, and the courts collaborate to ensure that effective higher education law is developed while empowering administrative oversight and fostering student self-accountability regarding safety. This contemporary model is perhaps what most influences current practices within higher education today.

On a functional level, the text is written in such a way that any practitioner may read it and gain an in depth understanding of the legal issues pervading higher education today. Bickel and Lake intentionally use simple terms and a multitude of easily understandable examples so that any practitioner can understand the issues discussed without the having previous legal knowledge. The text is easily read through the authors' conversational style of writing in which one feels more as if you are being told a winding, historical-narrative of case law. With this narrative, the reader is able to overview the entire proceedings of a lawsuit (from inception to findings) and gain a deep understanding of the origins and rationale behind the orders of the courts. Additionally, Bickel and Lake insert a dry humor and wry honesty concerning the legal

development of higher education that allows for an often needed break in the gravity of some of the concepts presented within the text.

Beyond the functionality of the text, practitioners are encouraged through its reading to further examine their own institutions and their actions concerning student rights and safety. The concept of “duty to care” has become a critical issue within today’s student affairs practice. However, this phrase may be used without complete understanding of its meaning or how to best practice it. Through reading the text, a practitioner may gain further insight into the duty one is obligated to perform within today’s legal and institutional paradigm.

At a glance, one may initially feel that this book is dated due to its 1999 publication date. However, the history and case studies within the text supplies concrete direction for contemporary practice. The text provides perspective on the origins of higher education’s “legal landscape” in which a practitioner must remain vigilant and perform their duties in an effective, safe, and responsible manner. Bickel and Lake predicted the legal era in which student affairs currently exists and offer case studies that pre-date their actual practice. *The Rights and Responsibilities of the Modern University* offers easy to understand insight that any practitioner may use to lead the field into a future in which we further actualize a mutually beneficial relationship between students, courts, and the institution.