

# **ASCA Ethical Standards: Interpretation and Application**

February 6, 2019

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# Learning Objectives

- Attendees will know best ethical practices, values and expected behaviors of the school counseling professional.
- Attendees will be able to describe the roles and responsibilities of the school counseling professional.
- Attendees will demonstrate their knowledge of the ethical decision making steps and process.

# Ethical decision making in the schools requires:

- knowledge of the laws (state statutes, FERPA, HIPPA)
- ethical codes,
- school board policies,
- community standards,
- decision-making model

# Types of Decision-Making Models

- Rational or Principal Model – “What should I do?”
- Virtue or Philosophical Ethics – “What kind of person will I become if I do this?”
- Social Constructivism Model- “How are values weighed by an individual, a professional and a community?”
- Collaborative Model
- Integrative Model – Blends rational and virtue models “How may my personal biases potentially be impacting what I do?”

# ASCA's Ethical Decision Making Model (Principle Ethics)



1. Define the problem emotionally & intellectually
2. Apply the **ASCA** & ACA Ethical Codes and the Law
3. Formulating an Ethical Decision Consider the child's chronological & developmental level
4. Consider the setting, parental rights & minors' rights

# ASCA's Ethical Decision Making Model

## 5. Apply the 5 Moral principles (Kitchener, 1985)

1. Autonomy (promote student autonomy)
2. Beneficence (“do good”)
3. Nonmaleficence (“do no harm”)
4. Justice (equity, fairness)
5. Loyalty (connectedness, availability to student)

## 6. Determine potential courses and consequences of action

# ASCA's Ethical Decision Making Model

7. Evaluate the selected action
8. Consult with fellow and experienced professionals
9. Implementation, documentation, and evaluation of the course of action

# Virtue or Value Ethics

Have you stopped to ask yourself:

- What is my own ethical code?
- What values do I use to help guide me through the decisions I make daily and how are these reflected in my behavior and character?
- What kind of model am I for others?



# Stadler's 3 tests (1986)

## Social Constructivism Model

1. Test of Justice: would you treat others in this same situation the same way?
2. Test of Publicity: would you want your behavior reported to the press?
3. Test of Universality: would you recommend the same course of action to another counselor in a similar situation?



## Discuss with a Partner:

- List the 2 most difficult topics for you to be objective about with a student.
- Think of one situation when worked with a student on one of these topics. How did you handle it?
- What personal value or belief was challenged as part of your struggle?
- Did you seek supervision or talk to a colleague?

# Most Common and Challenging Dilemma

## Maintaining confidentiality


- For personal disclosures
  - 67% of SC indicated this as most common, while
  - 46% of SC indicated as most challenging.
- For student records
  - 36% of SC indicated as most common
  - 18% of SC indicated as most challenging.

# Threshold lower for reporting

- Danger to self or others
- Bullying
- Mandated reporting

# The School Counselor's Responsibilities

## Confidentiality

- To support right to privacy, protect confidential information
  - To explain the meaning and limits of confidentiality in developmentally appropriate terms
  - To provide appropriate disclosure and informed consent regarding the counseling relationship and confidentiality
  - To inform students and the family of the limits to confidentiality when:
    - Student poses a danger to self or others
    - Court ordered disclosure
    - Consultation with other professionals
    - Privilege communication not granted by state laws & local guidelines
  - To keep personal notes separate from educational records and not disclose their contents except when privacy exceptions exist.
  - To seek guidance and legal advice when subpoenaed
  - To assert their belief that information shared by students is “confidential” and not be revealed without the student’s consent
  - To adhere to all laws protecting student records, health information, and special services (i.e., HIPAA, FERPA, IDEA)
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- Inform parents/guardians and/or appropriate authorities when a student poses a serious and foreseeable risk of harm to self or others.
  - Report risk assessment results to parents to underscore the need to act on behalf of a child at risk
  - Do not release a student who is a danger to self or others until the student has proper and necessary support.
  - Report to parents/guardians and/or appropriate authorities when students disclose a perpetrated or a perceived threat to their physical or mental well-being (i.e., physical abuse, sexual abuse, neglect, dating violence, bullying or sexual harassment).

# A.11. Bullying, Harassment and Child Abuse

- a. Report to the administration all incidents of bullying, dating violence and sexual harassment. School counselors provide services to victims and perpetrator as appropriate, which may include a safety plan and reasonable accommodations such as schedule change, but school counselors defer to administration for all discipline issues for this or any other federal, state or school board violation.
- b. Report suspected cases of child abuse and neglect to the proper authorities and take reasonable precautions to protect the privacy of the student for whom abuse or neglect is suspected when alerting the proper authorities.

# Expansions and Clarifications to WI Mandated Reporter Statute

- Expansion of what constitutes neglect per Bill AB355 (effective summer 2018); any person who is responsible for a child's welfare who negligently fails, for reasons other than poverty, to provide the child with necessary care or contributes to the failure is guilty of the crime of neglect. Under the bill, necessary care includes adequate food, clothing, medical care, shelter, and supervision; the opportunity for education; or the protection from exposure to the distribution, manufacture, or use of controlled substances.
- Clarification of responsibilities related to sex trafficking (introduced fall 2018); Child Sex Trafficking falls under the definition of abuse and must be reported, even if the perpetrator is unrelated to the child.

# Informed Consent for Counseling in Schools

- Required components:
  - Student is not too young, cognitively disabled or mentally ill to understand consent
  - Counseling Goals
  - Limits of Confidentiality
  - + and effects of counseling (risks/benefits)
  - Voluntary Participation
- Protective Interrupting
- At what point do you go over informed consent?



# Intersection of Cultural Considerations, Values & Principal Ethics

- Honesty –
  - How do you temper honesty so that your values are not imposed onto the student?
- Neutrality –
  - Is there such a thing in counseling?
- Equity –
  - Do you ever discriminate in counseling to meet the need of the student?

# Process

- If a student brings up an issue that is not in line with your beliefs, what do you do?
- Think about a student behavior that challenges your belief of right and wrong, how do you address it without being judgmental or shaming?
- Do we interfere when students are making harmful or poor decisions? When? How?

# Ethical Bracketing

- “The intentional separating of a counselor’s personal values from his or her professional values or the intentional setting aside of the counselor’s personal values in order to provide ethical and appropriate counseling to all clients, especially those whose worldviews, values, belief systems, and decisions differ significantly from those of the counselor” (p 182).
- Steps to take when faced with a values conflict: Immersion, education, consultation, supervision, and personal counseling.

# Integrative Decision-Making Model for Ethical Behavior

**Step 1.** Interpret the situation via awareness & fact finding

**Step 2.** Formulate an ethical situation & enhance sensitivity / awareness

**Step 3.** Select an action, weigh competing non-moral values, personal blind spots, or prejudices

**Step 4.** Plan and execute the selected course of action

# Application of 2016 ASCA Ethical Standards

## Practice Scenario: Testifying in court, private vs public notes & privileged communication

“This past school year I had a young student disclose to me that a family member sexually assaulted her. I informed the parents and reported the abuse to the proper authorities. The case is going to court and I have been subpoenaed to testify. I want to help this student find justice, yet I am concerned about the importance of respecting the necessity for confidentiality between students and school counselors. I am unsure if the ethical standard of confidentiality applies here.”

# Integrative Approach

- Task 1: Enhancement of sensitivity and awareness
- Task 2: Reflection to analyze whether a dilemma is involve
- Task 3: Determination of major stakeholders
- Task 4: Engagement in the fact finding process

## **Step 1: Define the problem emotionally & intellectually**

- Emotionally: I want justice for the student
- Intellectually: I want to maintain confidentiality between students and school counselor

# Step 2: Apply the ASCA Ethical Standards for School Counselors and the law

- A.2.e. Keep information confidential unless legal requirements demand that confidential information be revealed; A.2.i. Request of the court that disclosure not be required when the school counselor's testimony or case notes are subpoenaed if the release of confidential information may potentially harm a student or the counseling relationship. A.2.j. Protect the confidentiality of students' records and release personal data in accordance with prescribed federal and state laws and school board policies. A.12.c. Recognize the difficulty in meeting the criteria of sole-possession records; A.12.d. Recognize that sole-possession records and case notes can be subpoenaed unless there is a specific state statute for privileged communication expressly protecting student/school counselor communication; A.12.f. School counselors do not destroy sole-possession records that may be needed by a court of law, such as notes on child abuse, suicide, sexual harassment or violence, without prior review and approval by school district legal counsel.
- WI State Statute 48.981(7): "(7) CONFIDENTIALITY. (a) All reports made under this section, notices provided under sub. (3) (bm) and records maintained by an agency and other persons, officials and institutions shall be confidential."



## Step 3: Consider the child's chronological & developmental level

- Minor child; competent adolescent

## Step 4: Consider the setting, parental rights & minors' rights

- Setting: Information was shared with SC in context of their job at the school
- Parental rights: Information about abuse was shared with parents
- Minors' rights: Confidentiality

## Step 5: Apply ethical principles

Principles	Upheld	Not Upheld	Justification
Autonomy		X	Legal obligation
<u>Nomaleficence</u>	?		Helping student get justice
<u>Beneficence</u>	X		Helping student get justice
Justice	X		Would do this for all students
Loyalty	X		Limits of confidentiality shared in informed consent

# Step 6: Determine potential courses of action and consequences

Action	+	-
Speak with the school's attorney and try to get this subpoena thrown out so don't have to testify at all	Won't have to break confidentiality.	Not supporting student finding justice.
Speak with the family and explain that if required you'll share only the relevant information being ask for that should already be included in the report and already known	1 Will be supporting student finding justice. 2 May get permission to reveal already known information so confidentiality isn't broken	1 May need to go to court. 2 May be asked to compromise confidentiality further. 3 My identity may be revealed to the person who did the abuse. 4 May not have student's permission to reveal info in court.

## Step 7: Evaluate the selected action

- Start with action 1; then move to action 2 if needed
- Engage in reflective recognition and analysis of personal blind spots and consider contextual influences on values selection

## Step 8: Consult with fellow and experienced professionals

## Step 9: Implementation, documentation, and evaluation of the course of action

- Anticipate personal and contextual barriers and counter measures.

A K4 student stated that she was sleeping next to her mom and mom's boyfriend. She said she woke up when the bed was shaking and there was loud banging noises. She stated saw her mom and boyfriend "rocking the bed" and that she started to cry. The student is not able to tell the counselor when this took place.

Mrs. McKee is the assigned counselor for Khaleem Jackson, a ninth grader who is new to the district. Khaleem came to her office the first week in November to tell her that a girl in one of his classes was bothering him. On further questioning, Khaleem stated that the student, who happened to be White, making remarks that Black people were no good. Mrs. McKee told Khaleem that she would look into the situation. The next week, Khaleem came back to her office to tell her that the girl would not stop with the comments. Now she was saying that he was a “Black ass” and that he had “big Black people lips three times bigger” than hers. Mrs. McKee appeared worried and said that she would think about what needed to be done. In the meantime, Khaleem’s mother called Mrs. McKee and said that her son had told her he was being called derogatory names by a certain female student. Mrs. McKee acknowledged that Khaleem had notified her of the incidents and expressed her concerns to the mother. She told the mother that she was a little torn about what to do, as “it’s probably just a situation where the young woman is attracted to Khaleem and doesn’t know how to express herself appropriately. You know how kids are at that age.” Mrs. McKee went on to say that she sure hoped it was not anything more serious than that. Khaleem’s mother became upset and demanded that something be done, as she believed her son was being harassed. When Mrs. McKee was again contacted by Khaleem’s mother early the following week, Mrs. McKee stated that she had decided to call the young woman into her office and tell her “in no uncertain terms” that she was bothering Khaleem. Unfortunately, the young woman became angry at Khaleem for telling on her and enlisted the help of some of her friends to make fun of Khaleem, throw things at him, and continue with the name calling when their teacher was not around. When Khaleem and his mother reported this, Mrs. McKee stated that she planned to bring Khaleem and the young woman in for a mediation session. At that point, Khaleem’s mother told Mrs. McKee that she was going to report her unethical behavior to her supervisor and then the school board.

Last year, there was a case where one of our middle school students made sexual advances against another student outside of school. The parents of both students communicated with each other about the incident. Our school couldn't do anything because it happened off school property and was not done at a school sanctioned event. The parents of the student who was sexually harassed didn't get the police involved.

Now, two students came to see me in the school counseling office and let me know that the same student made sexual advances again to two more students. One of the students reporting this personally had it happen them, the other was just reporting on behalf of a friend. I don't believe any of the parents of the students involved know that this has happened.

My questions: Do I need to inform the parents that this alleged assault/harassment happened to their child(ren)? Do I make a CPS referral or call Sensitive crimes?

Our district Director of Student Services, recently told us that school counselors are required to use our district's new student data program to log in all students we see. We will be logging their first and last names, as well as the general reason we are seeing them. We were told that only our building principal and the counseling director would have access to print reports and view this information. This is all part of supporting our comprehensive data-driven school counseling program. I want to make sure that following my district directives will not pose an ethical conflict.



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