

**An Ethics Challenge for School Counselors: Part 2**

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### **Abstract**

Ethical and legal issues are dealt with daily by school counselors (Bodenhorn, 2006; Moyer, Sullivan & Growcock, 2012). Despite the prevalence of these issues, few resources exist to assist these professionals when making ethical and legal decisions. In addition, a lack of supervision for school counselors and managing complexities inherent when working with minors creates a need for continuous training (Moyer, Sullivan, & Growcock, 2012; Remley & Herlihy, 2007). As a result, this article intends to assist school counselors in making proper ethical and legal decisions. Each ethical dilemma is described via a quiz format to further ethical knowledge and discussion. Real cases, as submitted by school counselors, are described and followed by suggestions as based on ethical codes.

*Keywords:* school counseling, ethical dilemmas, confidentiality, privacy, informed consent

## **An Ethics Challenge for School Counselors: Part 2**

Ethical and legal issues are faced daily by school counselors (Bodenhorn, 2006; Moyer, Sullivan, & Growcock, 2012). Issues such as trust, confidentiality, privacy, informed consent, parental rights, time constraints, large counselor/student ratios, self-harm, advocacy, and collaboration/communication with school stakeholders such as teachers, parents, and administrators pose some of the most common ethical challenges (Capuzzi, 2002; Froeschle, 2006; Froeschle & Crews, 2010; Glosoff & Pate, 2002; Huss, Bryant, & Mulet, 2008; Lazovsky, 2008; Moyer & Sullivan, 2008; Stone, 2005; White Kress, Costin, & Drouhard, 2006; Wilczenski & Coomey, 2006). These ethical issues can be further complicated by the fact that legal, ethical, and school policy issues often conflict (Stone & Zirkel, 2010) and few resources exist to aid school counselors in making adequate ethical decisions (Remley & Herlihy, 2007). As a result, this article, written in a quiz format, offers suggestions for handling ethical issues faced by school counselors in the field. Further, this quiz describes specific ethical issues professional school counselors must manage, and demonstrates the process the school counselors used to reach decisions for each ethical issue.

### **Current Trends**

School counselors are faced with a multitude of ethical issues that did not exist a few years ago. The proliferation of cyber-bullying (Sickles, 2012), the increased need to prevent violent acts on campus (Bernes & Bardick, 2007), and the need to address mental health concerns (Walley, Grothaus, & Craigen, 2009) are all issues professional school counselors must be ready to address. Appropriate responses to these issues, when in accordance with legal and ethical guidelines, make an enormous difference in

the lives of students and on the campus climate, which involves creating an environment that allows individuals in the school to feel safe, valued, and respected.

School climate may help or hurt student learning and improve or impede personal/social issues (Ray, Lambie, & Curry, 2007). Because professional school counselors are called to improve student academic achievement, personal/social domains, and “promote and enhance the learning process for all students” (ASCA, n.d., p. 2), a consistent and ethical standard of practice that encourages equity, and therefore, an improved school climate provides “equitable and inclusive services” as well as a standard of care to all students (ASCA, 2010a, p. 5). Furthermore, the professional and ethical school counselor focuses on positive collaborations with parents, teachers, and community members, practices informed consent that encourages positive collaborations, and documents steps taken when resolving ethical issues (ASCA, 2010b). Ethical decision making models offer crucial guidance when determining this sequential course of action.

School counselors are mandated to utilize an ethical decision making model by the *ASCA Ethical Standards for School Counselors* (2010a). Because ethical decision making models allow school counselors to focus systematically on issues related to specific ethical dilemmas, these models are particularly useful when attempting to resolve an ethical issue. An example of a decision making model is Stone’s (2005) *Solution to Ethical Problems in School* (STEPS). Models such as this one are necessary when addressing ethical issues and should be used in conjunction with the American School Counselor Association’s (ASCA) *Ethical Standards for School Counselors* (2010a).

As stated above, appropriately addressing ethical or legal issues can help establish and maintain a standard of care. In order to establish this standard of care, school counselors must follow the previously mentioned ethical codes, and utilize an ethical decision making model, while potentially needing to consult with other school counselors. Engaging in these activities fosters school counselors' ability to demonstrate the process used to make an ethical decision.

The literature offers additional guidance to school counselors facing ethical or legal issues. For example, Huey (1986) suggests placing student interests first; discussing counseling limitations; considering diversity; assessing counselor competence; using a theoretical rationale; including family members as appropriate; following job descriptions, ethical codes, and school policies; consulting with other school counselors; participating in professional development; and clarifying that students are clients. Froeschle and Crews (2010) contend that school counselors seek legal advice and attain legal representation when needed. The following scenarios use many of the aforementioned techniques as follows.

### **Description of Ethical Scenarios**

The following ethical issues were submitted anonymously by school counselors practicing in Texas. Each contributor gave permission to use the case in this article with the stipulation that anonymity and confidentiality be maintained. Each issue is, therefore, a realistic case faced by a school counselor in the field. Though definitive answers cannot be given for addressing the ethical issues in these cases, suggestions for proper ethical conduct are based on the *American School Counselors' Association (ASCA) Ethical Standards for School Counselors* (2010a) and the *American Counseling*

*Association (ACA) Code of Ethics (2005)*. The discussion following each case intends to further discussion and enhance knowledge rather than to offer definitive answers.

School counselors should consider school policies, state laws, ethical decision making models, and consultations with other professionals when arriving at conclusive ethical decisions. Each of the following scenarios is a realistic dilemma submitted by a practicing school counselor. The cases intend to further knowledge of ethical codes and discussion.

### **Ethics Quiz Part 2 for School Counselors**

Read the following cases and determine the appropriate course of action based on the ethical codes. Possible answers and a discussion follow each scenario.

1. *The school counselor has been asked to see a student, a 5-year-old boy, for aggressive behavior such as pushing and hitting other students. The school counselor has discussed confidentiality and the limits to confidentiality with the student. During the session with the student, the student states he has been instructed by his mother to kill a neighborhood dog that has been barking frequently and disturbing their home. The student has conflicting feelings about killing this animal, but wants to please his mother; therefore, he has a plan in place to kill the animal later that day. Should the school counselor do anything to prevent the student from harming this animal? Who should the school counselor contact to prevent this harming of an animal? What is the ethical dilemma in this situation?*

The *ACA Code of Ethics (2005)* states:

B.1.c. Counselors do not share confidential information without client consent or without sound legal or ethical justification (p. 7).

The school counselor needs to determine if there is ethical justification to share this confidential information.

Also, the *ACA Code of Ethics* (2005) states:

B.2.a. The general requirement that counselors keep information confidential does not apply when disclosure is required to protect clients or identified others from serious and foreseeable harm or when legal requirements demand the confidential information must be revealed. Counselors consult with other professionals when in doubt as to the validity of an exception (p. 7).

The school counselor must decide if killing the dog is something that will harm the student or others. Further guidance is offered by the *ASCA Ethical Standards for School Counselors* (2010a) which states that the professional school counselor:

B.1.b. Adheres to laws, local guidelines and ethical standards of practice when assisting parents/guardians experiencing family difficulties that interfere with the student's effectiveness and welfare (p. 4).

Because killing the dog could result in the child getting attacked and hurt, this could be considered something that might harm the child. Therefore, asking the child to kill the dog may be considered a form of child abuse. Because this request can be considered abusive behavior, the school counselor should notify an abuse agency.

The *ASCA Ethical Standards for School Counselors* (2010a) states:

A.2.c. The professional school counselor recognizes the complicated nature of confidentiality in schools and considers each case in context. Keeps information confidential unless legal requirements demand that confidential information be revealed or a breach is required to prevent serious and foreseeable harm to the

student. Serious and foreseeable harm is different for each minor in schools and is defined by students' developmental and chronological age, the setting, parental rights and the nature of the harm. School counselors consult with appropriate professionals when in doubt as to the validity of an exception (p. 2).

Therefore, after reporting the child abuse to a protection agency, the school counselor should consult with a colleague about whether or not this issue constitutes serious and foreseeable harm. If the school counselor decides that because the child is planning to kill the animal later that day this act constitutes serious and foreseeable harm. The school counselor should also call 911 to protect the child immediately.

*2. A school counselor is asked to see a student exhibiting behavior problems. The student is frequently in In School Suspension (ISS) and is on the verge of getting suspended. In an attempt to improve problem behaviors, the school counselor sees the student daily while in ISS. After the counselor sees the student several times, the ISS instructor asks the school counselor why the student acts out so much and wants to know ways she can help the student. The ISS instructor says she has tried every approach possible and wants some advice from the school counselor. What kind of information should the school counselor tell the ISS instructor?*

Concerning this matter, the *ASCA Ethical Standards for School Counselors* (2010a) states that:

C.2.b. The professional school counselor provides professional personnel with accurate, objective, concise and meaningful data necessary to adequately evaluate, counsel and assist the student (p. 4).



And the *ACA Code of Ethics* (2005) states:

B.1.c. Counselors do not share confidential information without client consent or without sound legal or ethical justification (p. 7).

Therefore, the professional school counselor should not inform the ISS instructor of anything specific to the student (or learned about the student during a counseling session). Instead, the school counselor might provide the ISS instructor with several different ways to work with students in general, possibly providing the ISS instructor with resources about effective discipline techniques.

3. A teacher refers a student, who is not paying attention in class, for counseling. After a few counseling sessions, the student tells the school counselor that she vandalized the school restroom with some friends. The principal told the school counselor that she needed to catch whomever committed the vandalism in the restroom and make an example of that student. The principal told the school counselor that he expects anyone who has information about this issue to tell him. Should the school counselor tell the principal the about the vandalism?

According the *ASCA Ethical Standards for School Counselors* (2010a and 2010b), students have “the right to privacy and thereby the right to expect the school-counselor/student relationship to comply with all laws, policies and ethical standards pertaining to confidentiality in the school setting” (p.1). Section C states that while school counselors collaborate with teachers and administrators to develop alliances that benefit the student, the school counselor must also be careful to filter information that is confidential in nature (ASCA, 2010a).

The *ACA Code of Ethics* (2005) also offers guidance to school counselors. For example:

D.1.d. When counselors are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, they clarify role expectations and the parameters of confidentiality with their colleagues (p. 11).

B.1.c. Counselors do not share confidential information without client consent or without sound legal or ethical justification (p. 7).

Therefore, the school counselor should not tell anyone about the vandalism because that would be breaching confidentiality. Further, the school counselor may also need to clarify the ethical responsibilities inherent in school counseling to the principal. Another choice might be to discuss the consequences/benefits of disclosing the vandalism with the student. Nonetheless, the decision to share the information with the principal should be left up to the student.

*4. A school counselor works in a Texas high school with a population of approximately one thousand primarily low socio-economic students. One of the school counselor's responsibilities consists of organizing Student Support Team meetings. These meetings instruct pregnant teens about the Compensatory Education Home Instruction (CEHI) program that provides continued academic and post-delivery recuperation instruction in the student's home. The program ensures that academic instruction is uninterrupted and, as a result, attendance laws are satisfied.*

*When attending a Student Support Team meeting for CEHI implementation, a teacher tells the counselor that all sexual behavior of minors must be reported to law*

*enforcement. The school counselor finds herself in an ethical dilemma as she realizes the information being shared about the student's pregnancy, including the identity of the teen father, is related to sexual behavior and the student is a minor. She is greatly concerned that if she reports this information, the counseling relationship, based on trust and confidentiality, will be destroyed. She is concerned that with the violation of this trust, students will not report their pregnancies, preventing them from gaining access to important health services and uninterrupted education. She is also concerned that if she reports the sexual activity, there will be a degeneration or complete loss of confidence between counselors and students which will affect their relationship in other areas of counseling including academic advisement. Should this school counselor report the sexual behaviors of this pregnant student?*

When pondering this question, the school counselor must be familiar with the codes of ethics as well as the legal statutes defining the court's right to information. With regard to school counseling, the counselor must also be aware of the limitations of a minor's rights to confidentiality.

The *ASCA Ethical Standards for School Counselors* (2010a) protects the right of confidentiality for the student as described in sections A.2.c through A.2.g.:

A.2.c. Recognize the complicated nature of confidentiality in schools and consider each case in context. Keep information confidential unless legal requirements demand that confidential information be revealed or a breach is required to prevent serious and foreseeable harm to the student. Serious and foreseeable harm is different for each minor in schools and is defined by

students' developmental and chronological age, the setting, parental rights and the nature of the harm. School counselors consult with appropriate professionals when in doubt as to the validity of an exception (p. 2).

A.2.d. Recognize their primary obligation for confidentiality is to the students but balance that obligation with an understanding of parents'/guardians' legal and inherent rights to be the guiding voice in their children's lives, especially in value-laden issues. Understand the need to balance students' ethical rights to make choices, their capacity to give consent or assent and parental or familial legal rights and responsibilities to protect these students and make decisions on their behalf (p. 2).

A.2.e. Promote the autonomy and independence of students to the extent possible and use the most appropriate and least intrusive method of breach. The developmental age and the circumstances requiring the breach are considered and as appropriate students are engaged in a discussion about the method and timing of the breach (p. 2).

A.2.f. In absence of state legislation expressly forbidding disclosure, consider the ethical responsibility to provide information to an identified third party who, by his/her relationship with the student, is at a high risk of contracting a disease that is commonly known to be communicable and fatal. Disclosure requires satisfaction of all of the following conditions:

- Student identifies partner or the partner is highly identifiable.
- School counselor recommends the student notify partner and refrain from further high-risk behavior.

- School counselor informs the student of the intent to notify the partner if student refuses.
- School counselor seeks legal consultation from the school district's legal representative in writing as to the legalities of informing the partner (p. 2).

A.2.g. Request of the court that disclosure not be required when the release of confidential information may potentially harm a student or the counseling relationship (p.2).

In this case, the school counselor needs to consider the laws in her state regarding sexual behavior and the ages in place regarding the legality of the sexual behavior. The school counselor might also consider whether or not the student is currently participating in sexual behavior, has been abused, causing, permitting, or encouraging sexual behavior, and whether or not serious or foreseeable harm will come to the student. Depending on the laws in place in the state in which the school counselor resides, the school counselor should determine whether or not to report the issue. A potential alternative the school counselor might consider is contacting the local Child Protective Agency with agreement from and in the presence of the child. Doing this with the youth's consent allows the school counselor to report without damaging the therapeutic relationship.

*5. A high school student's best friend committed suicide last year. To overcome issues related to losing her best friend to suicide, the aforementioned student received crisis counseling at the school and followed up with a community counselor for another three months. The anniversary of the suicide caused further trauma responses and, as a result, the student's mother took her to see a psychologist. The*

*student reported to the school counselor that the psychologist she was seeing was a close friend of her mother. She further revealed that the person was not a psychologist but was actually a former Licensed Professional Counselor. Upon further review, the student learned that this counselor had his counseling licensed revoked. The student also expressed concern because the counselor was telling the mother everything that was discussed in the sessions.*

*The school counselor was not sure what direction to take with this dilemma, fearing that reporting the information to the parent would result in repercussions for the child at home. What is an appropriate ethical response for this school counselor?*

After consulting with other mental health professionals, the school counselor decided to study the codes of ethics for assistance. Following are pertinent passages from the *ASCA Ethical Standards for School Counselors* (2010a) and *American Counseling Association Code of Ethics* (2005):

The *ASCA Ethical Standards for School Counselors* (2010a) states:

A.2.d. School counselors recognize their primary obligation for confidentiality is to the students but balance that obligation with an understanding of parents'/ guardians' legal and inherent rights to be the guiding voice in their children's lives, especially in value-laden issues. Understand the need to balance students' ethical rights to make choices, their capacity to give consent or assent and parental or familial legal rights and responsibilities to protect these students and make decisions on their behalf (p. 2).

The *ASCA Ethical Standards for School Counselors* (2010a) offers additional guidance when dealing with inappropriate behavior by colleagues. The standards state

that when another counselor is acting in an unethical manner, professional school counselors must take appropriate action. For example, the school counselor first consults with another professional school counselor to determine if other professionals view the behavior as unethical. Next, the professional school counselor “directly approaches the colleague whose behavior is in question” (Hansen, 2012, p. 1). In accordance with the *ASCA Ethical Standards for School Counselors* (2010a), if the behavior goes uncorrected, then the professional school counselor must report the violation to the appropriate state boards and appropriate ethics boards.

The *American Counseling Association Code of Ethics* (2005) also offers guidance in section C.4. and H.2. Section C.4. states that counselors offer accurate representation of credentials; and H.4. report suspected violations. In addition, Section H.2.a. states that counselors expect colleagues to adhere to the *ACA Code of Ethics*.

Given the aforementioned codes, the school counselor decided to directly approach the unlicensed counselor regarding the unethical behavior and present concerns about the unlicensed counselor to the parent. The school counselor believed that when presented with factual information, the parent and unlicensed counselor would not expect the student to continue counseling with the unlicensed practitioner. The school counselor did decide, however, that if the behavior continued, the state board for licensure would be contacted.

6. *A teacher in a small, isolated, rural school district reported to the school counselor that she was extremely concerned about one of the students in her junior English class. The teacher reported the student was “frequently talking to herself in class” and the student’s responses to questions were “bizarre.” The school counselor met*

*with the student and the student reported she was not sure she wanted to continue in school because, "I have to live with this curse." When the school counselor questioned the student about this statement, the student stated her mother recently took her to see a curandero. The curandero was enlisted to help the student after she began seeing a "black hand reaching out of the wall" and trying to grab her. The curandero stated the student had been a victim of mal pusto (witchcraft), but assured the student that she would not die if the student and her family met with the curandero for up to six months of sessions. After further questioning, it became clear to the school counselor that the student was having significant auditory and visual hallucinations, but was not suicidal.*

*The school counselor met with the parents and was prepared to make a referral to the only local mental health agency in the area. However, the parents told the school counselor they would not follow through with the referral; instead they would work with the curandero to remedy the hallucinations. The parents requested that the school counselor provide individual counseling to aid the student in dealing with the fear created by the "black hand."*

*The school counselor felt ill equipped to help a student displaying psychotic symptoms, but felt a need to continue helping the student and her family. The school counselor was also skeptical of the motives and ability of the curandero to help the student.*

What are this school counselor's boundaries regarding competence? Should the counselor consider appropriate referrals? Is the child being neglected? What is the ethical and legal response for this school counselor?



The *ACA Code of Ethics* (2005) C.2.a states “Counselors practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience” (p. 9). The *ASCA Ethical Standards for School Counselors* (2010a) states in E.1.a. that professional school counselors “function within the boundaries of individual competence and accept responsibility for the consequences of their actions” (p. 4).

If the school counselor determines the student’s issues are beyond their scope of education and training, the school counselor should work with the student and the parents to find an appropriate referral (ASCA, 2010a, A.5.b). The school counselor should also make “a reasonable method of termination of counseling when it becomes apparent that counseling assistance is no longer needed or a referral is necessary to better meet the student’s needs” (p. 2).

The issue of child neglect may need to be addressed in this case. In some states, a parent may be found guilty of neglect if the parent fails to follow through with needed medical care when that lack of care leads to impairment in development or functioning of the child. School counselor should make a good faith report if they suspect the parent’s actions may be neglectful. At the same time, the professional school counselor must consider the culture of the child and family to determine if the visions are culturally rather than diagnostically based.

### **Implications and Conclusion**

According to ASCA’s *Ethical Standards for School Counselors*’ (2010a), “Professional school counselors are advocates, leaders, collaborators and consultants who create opportunities for equity in access and success in educational opportunities

by connecting their programs to the mission of schools and subscribing to professional responsibility (ASCA, 2012, p.1). As a result, responsible school counselors must be informed and prepared to handle current ethical issues. In particular, school counselors need to consider whether or not they are demonstrating the appropriate standard of care in regard to their decision-making. An appropriate standard of care can be established by following ethical guidelines and laws, as well as utilizing an ethical decision making model to determine the appropriate course of action. This quiz was written as an educational tool to help school counselors handle these current ethical issues as well as to become educated and active participants in ethical decision making. The quiz format offers a discussion forum whereby school counselors, counseling students and other professionals may consider and learn from realistic ethical issues.

This quiz may also offer a unique way to educate uninformed stakeholders about difficult ethical issues including appropriate and inappropriate responses. Principals, parents, teachers, community members, and school board members might find the information in this quiz informative and thought provoking. Ethical issues such as confidentiality, parent rights, and legal issues can be considered when interpreting or creating school policies.

While potential “answers” were given for each scenario, cases must be considered within each individual setting. Potential “answers” were given only as a guide and may be used to generate discussions in counseling meetings, college classrooms, school meetings, or to educate stakeholders. Using ethical decision-making models as a guide when solving ethical dilemmas is critical when systematically arriving

at an appropriate course of action. In short, the authors hope this quiz instills personal growth and learning for those in the field as well as other school professionals, parents, and community members.

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