

The School Counselor and Confidentiality

(Adopted 1974; reviewed and reaffirmed 1980; revised 1986, 1993, 1999, 2002, 2008, 2014)

American School Counselor Association (ASCA) Position

School counselors recognize their primary obligation for confidentiality is to the student but balance that obligation with an understanding of the family or guardians' legal and inherent rights to be the guiding voice in their children's lives (ASCA Code of Ethics, 2010, A.2.d).

The Rationale

ASCA members affirm their belief in the individual's worth and dignity (ASCA, 2010, A.1.a). It is the school counselors' responsibility to fully respect the right to privacy of those with whom they enter a counseling relationship and to provide an atmosphere of trust and confidence (Glosoff & Pate, 2002; Lazovsky, 2008; Welfel, 2002).

Confidentiality is an ethical term denoting a counseling practice relevant to privacy. A student who has a counseling relationship with a school counselor has the right to privacy and the promise of confidentiality. Exceptions to confidentiality exist, and students should be informed that situations arise in which school counselors must inform others of information obtained in counseling relationships in order to protect students themselves or others. Privileged communication between a school counselor and a student is a legal term granting privilege to a counseling relationship only if said "privilege" is granted by federal or state statute. If "privilege" applies it can provide additional safeguards to confidential information.

The School Counselor's Role

The role of the school counselor in regards to confidentiality is:

- To support the students' right to privacy and protect confidential information received from students, the family, guardians and staff members
- To explain the meaning and limits of confidentiality to students 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 in support of the student i.e. colleagues, supervisors, treatment teams, and other support personnel
 - Privilege communication is not granted by state laws and local guidelines (e.g. school board policies)
- To keep personal notes separate from educational records and not disclose their contents except when privacy exceptions exist.
- To seek guidance from supervisors and appropriate legal advice when their records are subpoenaed
- To assert their belief that information shared by students is "confidential" and should 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)

Summary

The counseling relationship between students and their school counselor requires an atmosphere of trust and confidence. Students must trust the school counselor in order to be able to enter into a meaningful and honest dialogue with the school counselor (Iyer & Baxter-MacGregor, 2010). However, students should be informed that exceptions to confidentiality exist in which counselors must inform others of information they obtained in the counseling relationship in order to prevent serious and foreseeable harm to students themselves or others and if it is legally required.

References

- American School Counselor Association. (2010). *Ethical standards for school counselors*. Retrieved from <http://www.schoolcounselor.org/files/EthicalStandards2010.pdf>
- Bodenhorn, N. (2006). Exploratory study of common and challenging dilemmas experienced by professional school counselors. *Professional School Counseling, 10*(2), 195-202.
- Cottone, R. R., & Tarvydas, V. M. (2007). *Counseling ethics and decision making*. Upper Saddle River, NJ: Pearson Merrill Prentice-Hall.
- Family Educational Rights and Privacy Act (FERPA). (1974) Retrieved from <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>
- Glossoff, H. L., & Pate, R. H. (2002). Privacy and confidentiality in school counseling. *Professional School Counseling, 6*, 20-28.
- Hermann, M. A., Remley, T. P., Jr., & Huey, W. C. (Eds.). (2010). *Ethical and legal issues in school counseling* (3rd ed.). Alexandria, VA: American School Counselor Association.
- Individuals with Disabilities Education Act (IDEA). (2004). Part B: School age children. Retrieved from <http://idea.ed.gov/>
- Isaacs, M. L., & Stone, C. (1999). School counselors and confidentiality: Factors affecting professional choices. *Professional School Counseling, 2*, 258-266.
- Iyer, N. N., & Baxter-MacGregor, J. (2010). Ethical dilemmas for the school counselor: Balancing student confidentiality and parents' right to know. *NERA Conference Proceedings 2010*. Paper 15. Retrieved from http://digitalcommons.uconn.edu/nera_2010/15?utm_source=digitalcommons.uconn.edu%2Fnera_2010%2F15&utm_medium=PDF&utm_campaign=PDFCoverPages
- Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Records. (2008). Retrieved from <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveridentities/hipaaferpajointguide.pdf>
- Lazovsky, R. (2008). Maintaining confidentiality with minors: Dilemmas of school counselors. *Professional School Counseling, 11*, 335-346.
- Merlone, L. (2005). Record keeping and the school counselor. *Professional School Counseling, 8*, 372-376.
- Moyer, M., & Sullivan, J. (2008). Student risk-taking behaviors: When do school counselors break confidentiality? *Professional School Counseling, 11*, 236-245.
- Remley, T. P., Jr., & Herlihy, B. (2013). *Ethical, legal and professional issues in counseling* (4th ed.). Upper Saddle River, NJ: Prentice Hall.