

Ethical Vignette Paper 1

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Professional, Ethical & Legal Issues in School Counseling

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According to Corey, Corey & Corey, “Confidentiality, which is rooted in a client’s right to privacy, is at the core of effective therapy...” (p. 207, 2019). Future counselors must understand the importance of client confidentiality. It is the basis of creating a trusting and safe environment for their clients to experience growth and healing in the counseling relationship. All counselors at some point, will face ethical and legal dilemmas that require understanding of the laws surrounding the counselor’s duty to warn and duty to protect the client and other individuals who may be at harm as a result of the client’s behaviors. As we have learned throughout the readings and coursework, no two situations are the same, so having a solid understanding of one’s own ethical beliefs, responsibilities and the regulations surrounding confidentiality when it comes to protecting the client or other individuals is imperative in the mental health professions.

The video from Negley Associates (2011), describes a particular situation that highlights the perplexity of a situation where the counselor is faced with the responsibility of a duty to warn others of potential violence or a duty to not breach confidentiality with the client. In the scenario described in the video, a counselor had a client who has the potential to be violent, as he had threatened violence in the past to his family and himself. The counselor knew of his unpredictable behavior. The counselor asked the client if he had a weapon and the client did not disclose any information to the counselor about whether or not he had a gun. Ultimately, the client ended up carrying a gun, which wounded a police officer when it was discharged in his pocket. The counselor believed that he/she was protected by the Utah law because the client did not inform the counselor that he was wanting or planning to cause harm to a specific individual. The court decided that the counselor could be liable because he/she had a duty to protect any individuals involved. When the dispatcher asked if the client had a weapon, the counselor should

have exercised reasonable care and let the dispatcher know that the client could potentially have a weapon. In this case, the counselor could have been able to still protect the police officers and protect the client's confidentiality. The text, *Issues & Ethics in the Helping Professions* explains that the definition of duty to protect encompasses the counselor's ability to withhold certain information to protect confidentiality, while also exercising caution and providing enough information to protect those in harm's way. I plan to become licensed in the state of Wyoming. In Wyoming, the law states that confidentiality may be broken under this specific circumstance, "Where an immediate threat of physical violence against a readily identifiable victim is disclosed to the person licensed or otherwise authorized to practice under this act" (Wyoming Mental Health Professional Licensing Board, 2019). The law in Wyoming is similar to the Utah law described in the video. Personally, I can see how important it is to fully understand these laws and identify your own beliefs regarding your duty to the client as well as your duty to protect all individuals involved. Because these laws are similar, it makes me think that I could very well be in a similar position down the road in my counseling profession. Responsibility lies with the counselor to determine the extent of the dangerous behavior. Burgess et al. writes, "The evaluation of dangerousness usually includes asking persons about violent fantasies that have a physical or sexual content, when they first noticed such thoughts, and how close they have come to acting on those fantasies (2015, p. 82). By doing this, the counselor may be able to gauge whether or not there is an imminent threat or duty to warn. The ASCA Ethical Standards for School Counselors details the threat as, "serious and foreseeable harm" (2016, ASCA). This is why a counselor must examine their own views and moralities in order to accurately assess these

types of situations. I would also reach out to a supervisor if I was unsure of how to handle the situation. This is outlined in the ACA Code of Ethics, “Counselors consult with other professionals when in doubt as to the validity of an exception” (ACA, 2014).

The article, *Reconsidering the duty to warn genetically at-risk relatives* explains the exceptions to breaking confidentiality with a client when there is a possible threat posed to the public. The authors explain the exception “... Permits disclosure of protected health information when the person to be warned is the subject of a serious and imminent threat of physical harm” (2018, p. 286). This also includes contagious diseases as a form of physical harm.

Ultimately, the counselor needs to conduct the appropriate steps in order to understand the rules and regulations for themselves, inform and protect their client, as well as assess behaviors and potential harm that can be inflicted upon individuals by their client. Not all situations will fall directly in line with the outlined rules regarding confidentiality. Therefore, counselors should be prepared for situations like the one explained in the video. It is a challenging but imperative skill to employ as counselors work to build a trusting relationship with all their clients and yet take on the responsibility of protecting those who come in contact with their client.

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Can You Be Liable For Violent Acts Of A Patient Even If You Have No Duty To Warn?

Negleyunderwriting, 12 Jan. 2011, www.youtube.com/watch?v=bKarisNo_go.

<https://drive.google.com/file/d/19sfR5ttwMF3RDxFE0uow4awCEo25EoPe/view>

<https://www.schoolcounselor.org/asca/media/asca/Ethics/EthicalStandards2016.pdf>

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Ethical Decision-Making Paper

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Abstract

The purpose of this paper is to analyze an ethical dilemma and determine the best course of action for the welfare of the student. The ethical scenario involves a school counselor who is seeing a 7th grader named Jason who is struggling with personal issues and at threat of committing suicide. After applying *Practitioner's guide to ethical decision making* (Forester-Miller & Davis, 2016), the school counselor should correctly assess the critical steps and interventions that are essential to take, in order to protect Jason from foreseeable harm. The paper includes specific Codes of Ethics that outline the legal and ethical steps that are required in this particular scenario. The school counselor's goal is to protect the student from harm at all costs and to fulfill all ethical and legal duties that fall within the responsibilities of the profession.

Step 1: Identify the Problem

In Ethical Dilemma 2, Jason is a student who is said to be contemplating and having suicidal thoughts. The information provided does not specifically say what Jason is saying in regard to suicide. He is struggling with family issues and the counselor decides from their conversation that from his words and actions there is foreseeable harm by suicide. The school counselor takes this information from their conversation and contacts the parents to inform them of the situation. By doing this, the counselor did not break confidentiality because the school counselor should have presented the student with an informed consent document outlining the counselor's responsibility to inform parents of imminent and foreseeable harm. Sivils-Cetinkaya writes, "School counselors work with minors on a daily basis and are ethically responsible to both students and their parents" (2019, p. 460). In this case, the counselor is legally required to breach the contract. This is detailed in the ASCA Ethical Standards for School Counselors under standard A.2, Confidentiality, section (e): "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" (ASCA, 2016). This specific scenario is a clinical, professional and ethical issue. It can be categorized as clinical because the client, 7th grader Jason, is at an imminent risk of suicide and causing deadly harm to himself. The focus is on the client and getting him immediate help and preventing harm. A professional school counselor has the responsibility to consider the information provided to him/her by the client and take a professional course of action to seek steps for the betterment of the client. In this case, the school counselor decided to call the parents and provide mental health resources that could potentially help Jason. The school counselor has to determine if he/she ethically has the right to contact any

individual outside of the student and inform them of the situation. Likewise, the question remains if the school counselor acted ethically by only contacting the parents with a list of resources when Jason is clearly facing a serious risk of committing suicide.

Step 2: Apply the ACA Code of Ethics

The ACA Code of Ethics outlines legal and ethical responsibilities that professional counselors have in a situation where the client has revealed signs of foreseeable harm. First and foremost, the counselor's duty is to protect the client from harm. In this scenario, the counselor has determined that the student is at imminent risk, meaning there is foreseeable harm in the near future to the student. The counselor should apply ethic code, *B.2.a. Serious and Foreseeable Harm and Legal Requirements*, which states, "The general requirement that counselors keep information confidential does not apply when disclosure is required to protect clients or identify others from serious and foreseeable harm..." (ACA, 2014). Legally, the counselor has the right to inform the parents of the student about his current state of mind. Outlined in ethic code *A.2. Informed Consent in the Counseling Relationship*, the counselor must explain to the student before the initial session, that the counselor has certain rights and the student also has rights in deciding to continue with the counseling sessions. It has to be made clear to the student in a way that they can understand in writing and verbally explain. (ACA, 2014). In this scenario, we do not have information about whether or not the counselor provided informed consent. The first session with Jason would be the time to explain that there are certain situations where confidentiality must be broken. At this point, Jason would decide if he wanted to continue the counseling process and disclose his suicidal intentions. Because he did so, the counselor has the right to reveal this information to his parents. This is described in code *B.1.d. Explanation of Limitations* (ACA,

2014). Jason is a minor, therefore the counselor must communicate with the parents because of code *B.5.b. Responsibility to Parents and Legal Guardians*. This code states, “Counselors are sensitive to the cultural diversity of families and respect the inherent rights and responsibilities of parents/guardians regarding the welfare of their children/charges according to law” (ACA, 2014).

Step 3: Determine the nature and dimensions of the dilemma

There are six identified basic morals by the textbook, *Issues & Ethics in the Helping Professions*: autonomy, nonmaleficence, beneficence, justice, fidelity, and veracity. (Corey, Corey & Corey, 2019). In this situation, the two moral principles that take priority are beneficence and veracity. Although, all moral principles should be applied and considered. Beneficence is required in this situation because Jason is likely to be in harm’s way if he does not receive the appropriate interventions. The text summarizes what Forester-Miller & Davis write about beneficence as, “Beneficence implies being proactive and preventing harm when possible” (2016). This is exactly what the school counselor needs to consider in this particular situation. The counselor has an obligation to do everything in their power to keep the client out of harm's way. Secondly, the counselor must apply veracity. The text explains veracity as being truthful with the client especially, but also in all the interactions the counselor is faced with in the profession. (2019, p. 18). The school counselor needs to be upfront and truthful with Jason regarding who the school counselor is going to need to share this information with, as well as, being honest with Jason’s parents who need to understand the severity of the situation with their son. Kimber & Campbell write, “Principals must resolve tensions that emerge from situations in which their professional ethics might conflict with their duties as a public sector employee...” (2014, p. 211). It is important for the school counselor to consult with other professionals when

unsure of the correct course of action. The ASCA directs in code *B.3. Responsibilities to Self (h)*., to seek supervision from other school counselors and professionals who understand the ethical practices (ASCA, 2016). In this situation the school counselor should consult a supervisor who has experience dealing with suicidal students.

Step 4: Generate potential courses of action

Before making any decisions, the counselor needs to meet with another professional who can weigh in on the decision. The student should not be left alone or allowed to leave without being supervised. One potential course of action that the school counselor should take is to immediately contact the parents and let them know about the serious threat. The counselor should urge and encourage the parents to hospitalize the student. At this point, the counselor could then refer the student to a therapist who is trained in counseling a suicidal client. In the scenario, the school counselor notified the parents of the situation, but only provided a list of resources to the parents. The school counselor did not exercise reasonable care and act urgently to prevent harm to the student. The student could still have left school and tried to harm himself. That is why the school counselor needs to act immediately and do all that they can to get the student to a safe place where they cannot harm themselves. The school counselor could tell the parents that he/she will notify the authorities and arrange for the student to be hospitalized. *A.9. Serious and Foreseeable Harm to Self and Others (d)*. states, “Report to parents/guardians and/or appropriate authorities when students disclose a perpetrated or a perceived threat to their physical or mental well-being...” (ASCA, 2016). The article, *Legal and Ethical Challenges in Counseling Suicidal Students* states, “Hospitalization can be the option of choice during a suicidal crisis, if the parents are not cooperating, when the risk is high” (2002, p. 42). During the process the counselor must

document all steps taken in prevention. After the student has been hospitalized, the school should not allow the student to return without having the necessary assessment from a mental health professional.

Step 5: Consider the potential consequences of all options and determine a course of action

If the counselor does not treat the situation with Jason as if it is urgent and takes the necessary preventions, the counselor will be liable if Jason does commit suicide. If the school counselor allows Jason to leave his/her office unattended after revealing that he wanted to harm himself, ultimately the counselor did not exercise reasonable care in protecting Jason from harm. For Jason, he is not in a mentally stable place, and may not fully understand the consequences of his choices. By simply providing the parents with a list of mental health resources, will not keep Jason from carrying out his intentions. The consequences for Jason could ultimately be death. Again, if the parents decide that their son does not need immediate attention and they do not take the counselor's concern seriously, then the parent's consequences could be the death of their son. For this situation, the best course of action is to first consult a professional before taking action if there is any uncertainty about what to do. Then the counselor should explain to Jason that he/she is legally required to report this information to his parents and authorities. Next, the counselor needs to explain to Jason that he/she is there to help and protect him and cannot let him leave without a parent/guardian or authorities. The school counselor should inform administration of what is going on as well. The counselor must also be documenting the steps that are being taken in this situation. Lastly, the counselor should follow up with Jason and the parents and make sure that the family has the necessary resources to continue with Jason's mental healing and family issues.

Step 6: Evaluate the selected course of action

Using Stadler's test of applying justice, publicity, and universality (1986), the counselor can determine if the selected course of action is the best decision ethically and legally for the well-being of the client. By applying the test of justice, the counselor must consider whether or not they would take the same actions in the same scenario with another individual. In this situation, the counselor should always immediately contact parent/guardians in a case where there is immanent harm to the client. Exercising reasonable care should be applied in these types of cases for individuals of all ages. Therefore, the decided upon course of action passes the justice test. Personally, if I was the school counselor in this situation and acted appropriately by urgently seeking safety to the student by collaborating with other professionals as well as, contacting parents and/or authorities, I would not be ashamed of the choices that I made in order to protect Jason. Ultimately, the course of action would also pass the publicity test. Finally, the test of universality needs to be applied to the course of action. I would guide other counselors to act similarly, because the goal is to protect Jason from harm at all costs. The same should be applied to counselors dealing with other suicidal clients.

Step 7: Implement the course of action

This is the crucial step in preventing the worse-case scenario. All the previous steps need to be fulfilled and fall into order to ensure that Jason receives the appropriate care and intervention to keep him safe and mentally healthy. This is the step in the model where the actions take place after considering the best possible solution. In the scenario, although the school counselor did contact the parents about Jason's mental state, he/she did not implement the best course of action and act ethically on behalf of the student. At this point, the priority is not to provide Jason's parents with a list of resources, but to act urgently and ensure that Jason is safe

and then receives the proper counseling that he needs. The counselor needs to constantly be self-evaluating and questioning why they are choosing each course of action. As Corey, Corey & Corey state, “The best way to maintain a clear ethical position is to focus on your clients’ best interests” (2019, p. 12). The counselor can rest assured if they have protected and advocated on behalf of the client, while doing their best to follow and abide by the ethical and legal standards outlined in the ASCA Ethical Standards for School Counselors, the ACA Code of Ethics, and their particular state’s rules and regulations.

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