SCHOOL-BASED MENTAL HEALTH PROVIDERS: ETHICAL CONSIDERATIONS

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LEARNING OBJECTIVES

1. Identify privacy, confidentiality, informed consent and multiple relationship issues in school mental health provision

2. Be familiar with the standards of practice related to these issues

3. Identify how these ethical dilemmas may be addressed within a problem-solving method/process

4. Identify the professional skills needed when providing mental health services in schools
MENTAL AND BEHAVIORAL HEALTH SERVICES IN THE SCHOOLS

• Exist on a continuum and are increasingly provided within a multitiered system of supports.

• Encompass more than the intensive therapeutic supports provided to students who are identified with psychiatric disorders and are often served by community-based providers.

• Delivered within a multitiered system of supports (MTSS) include a range of layered services and supports that promote mental and behavioral wellness among all students.

• Includes, but is not limited to, students dealing with depression and anxiety, emotional and behavioral disorders, trauma, loss and grief, family problems, and stressors due to influences such as poverty and homelessness.

(NASP (2015). School psychologists: Qualified health professionals providing child and adolescent mental and behavioral health services.)
WHAT IS SCHOOL-BASED MENTAL HEALTH AND WHO PROVIDES THESE SERVICES?

• Increased use of evidenced-based mental health practices (EBMHP) to reduce the impact of mental health problems in schools with a focus on prevention (Shernoff, Bearman, & Kratochwill, 2017)

• Typically manualized interventions and protocols targeting one problem area (e.g., anxiety/trauma, depression, disruptive behavior, inattention)

• Implemented by or under the direction/supervision of school psychologists, school social workers, school counselors
SCHOOL PSYCHOLOGISTS AND MENTAL HEALTH

• School psychologists are uniquely positioned in schools to facilitate the development, delivery, and monitoring of prompt, effective, and culturally responsive mental and behavioral health services of prevention and intervention.

• School psychologists’ broadly focused preparation as academic, mental, and behavioral health service providers, coupled with their engagement in and familiarity with schools’ organizational and cultural contexts, equips them to play a primary role in multitiered and responsive school-based mental and behavioral health programs.
• A critical link between school, home, and community.

• Coordinating the efforts of schools, families, and communities

• Helping students improve their academic achievement and social, emotional, and behavioral competence

• Viewing the person in his or her environment.

• School Social Workers not only provide direct services to children who require basic needs or exhibit challenging behavior, but also lead prevention efforts that support children through building the capacity of family members, other school staff, and community agencies to improve student outcomes.

--NASW Standards for School Social Work Services
SCHOOL COUNSELORS & MENTAL HEALTH

- Personal/social counseling, which assists students to develop an understanding of themselves, the rights and needs of others, how to resolve conflict and to define individual goals, reflecting their interests, abilities and aptitudes.

- Goal: Students will acquire an understanding of, and respect for, self and others, and the skills to be responsible citizens.

Standards for School Counseling Programs in Virginia
Prohibits the use of counseling techniques which are beyond the scope of the professional certification or training of counselors, including hypnosis, or other psychotherapeutic techniques that are normally employed in medical or clinical settings and focus on mental illness or psychopathology.

8VAC20-620-10. School guidance and counseling services.
Personal/social counseling assists a student to develop an understanding of themselves, the rights and needs of others, how to resolve conflict and to define individual goals, reflecting their interests, abilities and aptitudes. Such counseling may be provided either (i) in groups (e.g., all fifth graders) in which generic issues of social development are addressed or (ii) through structured individual or small group multi-session counseling which focuses on the specific concerns of the participant (e.g., divorce, abuse or aggressive behavior).
TIER 3: DIRECT AND INDIRECT SERVICES TO ADDRESS IDENTIFIED MENTAL AND BEHAVIORAL HEALTH PROBLEMS

- Direct therapeutic services to all students in need, including individual and group counseling, even in the absence of a clinical diagnosis or identified educational disability
- Cognitive–behavioral therapy, behavior therapy, and dialectical behavior therapy
- Psychological assessment of social, emotional, and behavioral problems
- Suicide intervention and postvention
- Crisis intervention/crisis response

INDIVIDUALIZED/INTENSIVE MENTAL HEALTH SERVICES

• Counseling
• Psychological Counseling
• Psychotherapy
• Behavioral management
• Affective education

• Are there differences? Are they manualized? Who provides them?
• What issues arise with each?
• What are the ethical concerns?
PRIVACY, CONFIDENTIALITY, & INFORMED CONSENT

• Keep confidential their professional relationships with patients or clients and disclose client records to others only with written consent except: (i) when a patient or client is a danger to self or others, (ii) as required under §32.1-127.1:03 of the Code of Virginia, or (iii) as permitted by law for a valid purpose;

• Inform clients of professional services, fees, billing arrangements and limits of confidentiality before rendering services.

* Virginia Board of Psychology Standards of Practice
CENTRAL ISSUE IN MENTAL HEALTH PROVISION

Privacy

Confidentiality

Informed Consent
“INFORMED CONSENT”: KEY ELEMENTS

• Knowing:
  • Person giving consent must have a clear understanding of what he or she is consenting to
  • Person seeking consent must make a good faith effort to disclose enough information so the person from whom consent is sought to make an informed choice

• Legally competent: parent (legally responsible adult), student of legal age, emancipated minor

• Voluntary: do so freely; no coercion, duress, misrepresentation; free to decline

(Jacob, Decker & Lugg, 2016)
The explanation includes:

- Discussion of the limits of confidentiality,
- Who will receive information about assessment or intervention outcomes, and
- The possible consequences of the assessment/intervention services being offered.

(Jacob, Decker & Lugg, 2016)
Takes into account:

- Language and cultural differences,
- Cognitive capabilities,
- Developmental level, age, and
- Other relevant factors so that it may be understood by the individual providing consent.

(Jacob, Decker & Lugg, 2016)
SCHOOL PSYCHOLOGISTS AND INFORMED CONSENT

• Except for urgent situations or self-referrals by a minor student, school psychologists seek parent consent (or the consent of an adult student) prior to establishing a school psychologist–client relationship for the purpose of psychological diagnosis, assessment of eligibility for special education or disability accommodations, or to provide ongoing individual or group counseling or other non-classroom therapeutic intervention.

• School psychologists inform students and other clients of the boundaries of confidentiality at the outset of establishing a professional relationship. They seek a shared understanding with clients regarding the types of information that will and will not be shared with third parties.
School social workers shall have knowledge of and comply with local, state, and federal mandates related to informed consent, privacy and confidentiality, and access to records within the context of legal and ethical rights of minors and parents. Students, families, and other professionals shall be informed of the limits of confidentiality when services are initiated.

--NASW Standards for School Social Work Services: Standard 1
SCHOOL COUNSELORS & INFORMED CONSENT, CONFIDENTIALITY

- No student shall be required to participate in any counseling program to which the student's parents object.

- Written notification, at least annually, to parents about the academic and career guidance and personal/social counseling programs which are available to their children. The notification shall include the purpose and general description of the programs, information regarding ways parents may review materials to be used in guidance and counseling programs at their child's school and information about the procedures by which parents may limit their child's participation in such programs.
SCHOOL COUNSELORS & INFORMED CONSENT, CONFIDENTIALITY

- Information and records of personal/social counseling be kept confidential and separate from a student's educational records and not disclosed to third parties without prior parental consent or as otherwise provided by law.
- Parents can elect in writing to have their child not participate ("opt-out") or
- Require affirmative parental consent to participate in such counseling ("opt-in"), but NOT require affirmative parental consent for short duration personal/social counseling, which is needed to maintain order, discipline or a productive learning environment.
School psychology intern, Suzie, is seeing a fifth-grade student, Becky, for an assessment. During the assessment, Becky indicates that she is very sad about school and her home situation. She informs Suzie that her father frequently drinks a lot and gets “nasty”. She wishes sometimes that she could just go away. As Suzie talks more with Becky, she says that she sometimes would just like to die and end it all. Becky knows that mom has lots of pills and she thinks that maybe she could just go to sleep and not wake up. Becky has also been in an adjustment group with the school counselor. Suzie discusses this with her intern supervisor and school counselor. A week later, the school administrator calls Suzie’s supervisor upset that she had not been told.
“THE MENTAL HEALTH PROVIDER’S NIGHTMARE”

Confidentiality has its limits

Informed consent does not mean full and complete disclosure
WHY THE NIGHTMARE?

• Shared decision-making process

• Challenges for mental health providers include:
  • knowing just which information to share and in how much detail,
  • deciding in what form it should be shared,
  • knowing how to ensure the prospective participant’s understanding of the information,
  • knowing when this process should occur, and the like.

• Informed consent should be viewed as a process, not as a single event (Barnett, 2007)
LIMITS?

- There is no such thing as total confidentiality
- Confidentiality has limits—reach agreement with all those in a collaborative relationship concerning those limits
- A clear prior agreement about confidentiality and its limits
- May be necessary to discuss confidentiality at multiple points in a professional relationship to ensure client understanding and agreement (NASP PPE I.2.3)
CONFIDENTIALITY & CONFIDENCE

• Both come from the same Latin “root”
• Confidence = “con fides” which means “with faith”
• A trusting relationship
• Client: “I have trust/faith in you that you will keep my information private”
• Mental health provider: “You can trust that I will not divulge what you say to anyone else without your permission”
• The relationship accounts for at least 70% of improvement regardless of the therapeutic methods used.
WHAT DOES INFORMED CONSENT MEAN?

• When the client is the student? Parent? Teacher? Administrator? Team?
• Who?
• What?
• When?
• Where?
• How?

• Do we inform verbally/orally? A written agreement? Both?
• Do we inform prior to services are provided? When services change? When circumstances change?
EXERCISE: WHAT DOES INFORMED CONSENT LOOK LIKE AND SOUND LIKE IN YOUR SCHOOL?

- When you meet with a parent or teacher prior to providing mental health services to their child/student, what do you say?
- How much information do you provide?
- How does this change based on the type of service provided?
- Does it differ based on which school professional is providing the mental health service?
- Do you provide a written contract?
REFLECTIONS

• How can you apply this in your daily practice in the schools?
• What actions might you take in applying confidentiality and informed consent issues in problem-solving teams?
• Will you have a different discussion with parents about your work, assessment, and therapeutic services?
• What do your informed consent forms look like and are they adequate?
• Do you use blanket consent forms on a regular basis?
MULTIPLE RELATIONSHIPS

Avoid dual relationships with patients, clients, residents or supervisees that could impair professional judgment or compromise their well-being (to include but not limited to treatment of close friends, relatives, employees);

 Withdraw from, adjust or clarify conflicting roles with due regard for the best interest of the affected party or parties and maximal compliance with these standards

• Virginia Board of Psychology Standards of Practice
A PROBLEM-SOLVING MODEL
(JACOB, DECKER, & LUGG, 2016)

- Define the problem, including all of the specific components that may be involved
- Separate out the ethical and legal issues that might be involved
- Delineate the specific ethical and legal guidelines that might apply to the issues of the case
- Evaluate the rights, responsibilities, and welfare of the affected parties…most important to protect welfare of student
A PROBLEM-SOLVING MODEL
(JACOB, DECKER, & LUGG, 2016)

- Create a list of alternative decisions
- Consider the consequences of each potential solution
- Weigh the costs and benefits of each…ask whether any potential consequences are worth the risk…might be very subjective and may need to consult
- Make a decision
PROFESSIONAL SKILLS NEEDED

• Provide and supervise only those services and use only those techniques for which they are qualified by training and appropriate experience. (Virginia Board of Psychology)

• To benefit clients, school psychologists engage only in practices for which they are qualified and competent. (NASP Principles for Professional Ethics)

• What are the skills needed to provide mental health services in schools?
• Knowledge of clinical diagnoses
• An ability to translate clinical information into educationally relevant information for teachers and school staff
• Training and familiarity with different types of evidenced-based treatment
• Ability to provide treatment – most frequently within a cognitive-behavioral framework.
• An understanding and appreciation of the multiple factors that affect and maintain a student’s behaviors and emotions and their interaction is also a key skill in working with any student.

HOW TO ACQUIRE THOSE SKILLS: PROFESSIONAL DEVELOPMENT PLAN

✓ Training “in-house” by those professional staff members with expertise and experience
✓ Bringing in professionals to provide “in-house” training
✓ Develop a professional resource library of materials and programs that are evidenced-based
✓ Practice skills under supervision
CASE EXAMPLE A

- You are a school psychologist working for a school system. You also have a part-time private practice with a large clinical practice group. A clinical psychologist who works with you in private practice is seeing a student who attends one of the schools that you are assigned. The clinical psychologist shares with you that this student is having some problems in class and is wondering what the teacher is like. He asks you about the teacher since he thinks that the information he is getting from the student’s mother is probably biased. You offer your opinion about the teacher and the way that teacher runs her class. You offer to talk to the teacher about this student, even though you have never worked with this student before and the student has never been referred to the student support team.
CASE EXAMPLE B

(1)

- You are a school psychologist working for a school district. The principal asks you to talk to a teacher who is having trouble with a couple of students in her class. You meet with the teacher as requested and she describes the specific problems that she is having with these students. You discuss some ideas with her that might help, but suggest that it would be better to come and observe them in class. The specific students have not been identified by name. You arrange a time for the observation.
CASE EXAMPLE B

(2)

- You arrive for the observation. The teacher points out to you who the students are and calls on the students using only their first names. Based on your observations, you provide some specific interventions for the teacher to try for the next week and provide a method to record the results. At this point, no parental permission has been obtained.

- The principal approaches you and asks how the consultation went and what specifically you had done. In the course of the conversation, the principal indicates that he is having some classroom management problems with this teacher and wanted your opinion about this. You share your observation information with him and discuss your ideas.
CASE EXAMPLE C
(WANDA ROSE)

Wanda Rose is concerned about the children in her elementary school experiencing adjustment difficulties related to parent separation and divorce. She decides to form counseling groups for children experiencing parent separation or divorce. She asks teachers to identify students who might benefit from group counseling and then sends letters home with the children, notifying parents that their child will be seen for group counseling sessions. She asks parents to contact her if further information about the counseling is desired.

From Jacob, Decker & Lugg (2016): Ethics and Law for School Psychologists
CASE EXAMPLE C
(WANDA ROSE)

- Obligated to describe the nature, scope, and goals of the counseling sessions
- The sessions expected duration
- Any foreseeable risks or discomforts for the student (e.g., loss of student and family privacy)
- Any cost to parent or student (e.g., loss of instructional time)
- Any benefits that can be reasonably expected (e.g., the possibility of enhanced adjustment to parental separation)
- Alternative services available and likely consequences of not receiving services
- Decide whether to offer each child the opportunity to make an informed choice to participate or not