CASE STUDIES

Legal and Ethical Issues in Working with Minor in Schools
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The following cases have been developed by referring to:
X actual situations which have occurred in Florida schools;
X court cases;
X legislation;
X ACA codes.

References:

CASE 1 Directory Information

Ms. Sheffield disappeared with her son Richard to escape an abusive husband. Ms. Sheffield enrolled Richard in your school without a word about their problems. You published the honor roll of your fifth graders in the newspaper and Richard’s name was among them. A relative of Mr. Sheffield saw Richard’s name in the paper and contacted Mr. Sheffield. Ms. Sheffield is furious as she feels she must uproot her family and seek a new town in order to hide. She maintains that the school acted improperly by publishing her child’s name without her permission. Did the school act legally when they published Richard’s name in the newspaper?

Directory information includes ___________. John Smith does not live with his father. Is his father’s information directory information also?

CASE 2 Directory Information

CASE 3 Student Records/Case Notes

You have been seeing Stephen for individual counseling for three months. You have received a request from Stephen’s mother for copies of all school records. His mother who is incarcerated in another state has also asked for your case notes. Are you legally required to provide her with records? Must you provide her with your case notes?

CASE 4 Legitimate Educational Interest

Your cousin coaches Little League baseball. He would like information on a student in your school that he coaches. He is very fond of the young man who seems to be having vision difficulty. The coach asked the boy’s parents about his problem and the parents dismissed it with “he can see, he is just uncoordinated.” Your cousin would like for you to look at the vision screening results in this child’s student record to see if a problem has been noted. Is there an ethical or legal dilemma here?
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CASE 5 Research

You are the counselor of Urban Elementary in Jacksonville, Florida. A UNF professor of counselor education has been working with you to implement a character education program. The UNF professor has asked you to participate in a study to assess the impact of the character education classroom guidance program on the behavior of 12 children. The teachers of these 12 students are being asked to track behavior on a rating chart. The disciplinary records of these students will be used to complete the data. The final report will not identify students by name. Have FERPA laws been followed?

CASE 6 Purging Student Records

CASE 7 Child Protection Workers and Records

CASE 8 Exception for Law Enforcement Units

CASE 9 Students and Their Records

You are a school counselor, school psychologist, or social worker. Can you honor a student’s request for information from their school record?

Peter is an eighteen-year-old college student who lives at home. His parents have requested copies of his records from you, his former high school counselor. Must you seek Peter’s permission before releasing his records to his parents? The army recruiting officer wants Peter’s records. Who must give consent? Peter, his parents, both Peter and his parents?

Faye, a sixteen-year-old married student wants to prohibit her parents from accessing her educational records. Can Faye prohibit her parents from obtaining her records?

CASE 10 Violating Privacy of Educational Records

Mrs. Shubuta complains to you that her child is being humiliated and his privacy rights violated because his teacher has the students exchange papers to grade and the students then call out the grades for recording. Her child has serious learning difficulties and his grades are always very low. She says her lawyer has explained that FERPA rights are violated because his grades are educational records. Is her lawyer right?

CASE 11 Falsifying Student Records

You are a school counselor. You enjoy the role of accomplishing the impossible to help your high school students get scholarships. Bert, one of your seniors, is a talented rower who is being recruited by the six universities in the country who offer rowing scholarships. These schools all require four years of science to include physics. Bert dropped physics in his junior year so that he could pick up weight lifting to help his rowing. It was unknown to Bert and to you how this decision would plague him down the road. He has the grades, SAT scores, and talent to get into any of these schools but not the physics course and certainly not the money. Efforts to right the situation have failed until you speak directly to one of the coaches recruiting this young man. The coach encourages you to “get physics on the transcript somehow.” Physics would have been an easy for this student. Bert needs this scholarship and a chance at the future. You put physics on the transcript. Bert gets his scholarship. Did the end justify the means?

Your state Professional Practices Commission recommends that you not be fired. Can you be fired by your school district anyway?
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CASE 12 Educational Malpractice

Can you be sued and found guilty for giving Bert (see previous case) incorrect information?

CASE 13 Rights for Non custodial Parents

John Doe and Mary Smith are divorced parents of Rolanda, a fifth grader in a public school. Mary Smith also has custody of Rolanda. The father has visitation rights. There is a history of conflict between Rolanda and her mother and is the basis of counseling Rolanda frequently seeks from you, a student service worker. Conflict revolves around Ms. Smith’s restrictive discipline and refusal to allow Rolanda to leave the house in the afternoon. Ms. Smith’s emphasis on grades and the restriction of Rolanda’s activities during the week, result in regular battles. A teacher expressed concern that Rolanda seemed very depressed and that her grades are falling. You suggested a call to her mother, but Rolanda became very upset and begged you to call her father instead. You consulted with her principal who consulted with the Supervisor of Guidance. They both agreed that a call to the father was in the child’s best interest. You called the father to suggest a conference with both parents and then called the mother requesting the same. Ms. Smith was enraged that you contacted Mr. Doe before seeking her permission. She said she was refusing to allow you or any other school representative to meet with the father. Can a student service worker consult the noncustodial parent about a social-emotional issue involving their child? Does Mr. Doe have the right to be included in parent-teacher conferences? Is the school obligated to notify the custodial parent before contacting the noncustodial parent?

CASE 14 Parents Disagree on Transportation

Mr. and Mrs. Hernandez are divorced. Mrs. Hernandez is the custodial parent of Samantha, a third grader. Mrs. Hernandez has instructed the school not to let Mr. Hernandez pick up Samantha as she is afraid he will kidnap her. What is your response?

CASE 15 Parents Disagree re: Special Education Placement

One parent wants special education placement for their child and one parent disagrees.

CASE 16 Informed Consent Regarding Placement into Special Programs

CASE 17 Subpoena of Student Records

CASE 18 Confidential Testimony

You are a school counselor, school psychologist, social worker, school nurse, or mental health therapist. You have been subpoenaed to provide testimony in a child custody case involving a thirteen-year-old you are counseling. You are asked to disclose information that you consider confidential. What do you do?

CASE 19 Suicide

A fourteen-year-old middle school student reports to you that Sarah, a counselee of your colleague Mr. Barnes, is involved in Satanism and has entered a murder-suicide pact with another student. You and Mr. Barnes call Sarah in and she vehemently denies the allegations and even scoffs at the idea that she would ever be involved in a cult. She convinces you.
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Do you have any further obligations in this case?

CASE 20  Bulimia & Anorexia

You have been told by several students that Vernisha has been heard purging in the bathroom on two different occasions. Vernisha looks healthy to you. What are your ethical responsibilities?

You have a young woman in your school who is underweight and makes you think of a child with anorexia. Her face is very gaunt and she looks so fragile you fear she will break. No one has come to you with concerns about this student but you believe there has to be a serious medical problem. What do you do?

CASE 21  Sexually Active Teens

You are a school counselor, school psychologist, social worker, or licensed mental health therapist employed by a (local school district, community agency). You are counseling a young woman who is 15 and sexually active. Should you notify her parents that their daughter is sexually active?

CASE 22  Abortion Counseling

A seventeen-year-old woman tells you she is pregnant and asks for your advice as to whether she should have an abortion. What should you do?

The above minor is thirteen-years-old?

(The above scenario, yet add this information...) You are vehemently opposed to abortion. What do you do?

CASE 23  Teachers and HIV+ Students

An autistic preschool handicap child entered your school. You accidentally acquire information that this four-year-old child is HIV+. The principal has warned you that you are not to reveal the child’s HIV+ status to the teacher. This four-year-old is not potty trained and is a biter. It is inconceivable to you that this information is being withheld from the teacher. You are seriously considering dropping some hints to the teacher such as, “This school year you need to be especially careful to use your rubber gloves when cleaning up after your students.” Is there an ethical dilemma here?

CASE 24  HIV+ Clients

You are a mental health therapist, school counselor, or social worker. You have a seventeen-year-old client, who is HIV+. He says he occasionally has unprotected sex with various partners because he fears the rejection he might experience if he shares his HIV+ status with them. What are your ethical responsibilities in this case?

CASE 25  HIV+ Client and Alice

You are a mental health therapist, school counselor, or social worker. You have a seventeen-year-old client who is HIV+. He says he has unprotected sex with his girlfriend, Alice. He says he will lose her if he shares his HIV+ status with her. What are your ethical responsibilities in this case? Your legal responsibilities?

CASE 26  Student-on-Student Sexual Harassment

Until sixth-grade, Sarah was a conscientious student consistently given high marks by teachers in her work ethic. Sarah’s
elementary academic life was not without struggle but her motivation allowed her to maintain above average grades with an occasional “C”. However, the sixth-grade brought a marked change in grades and attitude for Sarah. At first her teachers and parents attributed the change to “middle-school adjustment” but when Sarah began to make health excuses to miss school, her parents called a student service worker for help. During the parent initiated school counseling sessions, Sarah’s counselor began to learn the truth of her first five months of sixth-grade. Sarah was a victim of sexual harassment. Sarah was unusually well-developed for a 12-year-old and found herself the target of jokes and sexual comments about her physical development. Changing classes was the worst time for Sarah as boys leered, jeered, brushed up against her, and sometimes a hand would grope. Most recently, Sarah found herself trapped against her locker by a group of boys who made lewd remarks to her and wouldn’t let her pass. Their leader who frequently harassed Sarah, was a boy she recognized as having slid his hand up her blouse while she was trying to negotiate a crowded hallway. Sarah shared her situation with her friends who repeatedly advised her to ignore the perpetrators and not to make “a big deal about it.”

To complicate matters, Sarah told her counselor that she did not want her revelations repeated to anyone, especially her parents, “They always tell me I am too loud and forward with boys and that my clothes are too tight. If they learn about what these boys have been doing, they will just tell me ‘I told you so’ or ‘you asked for it by dressing like that’.” Perplexed by the unwelcome attention and how to respond to it, Sarah hinted that she may in some way be responsible for bringing the harassment on herself and she wished she could just learn to ignore the attention or develop a sense of humor about it all.

Student service workers’ responsibilities. Student service workers are needed to develop and implement intervention strategies and support students who are victims of sexual harassment but difficult, legitimate legal and ethical questions must be considered. Sarah explained to her counselor that her parents have always taken the position that she was “loose” and interpreted all contact with boys as proof that their daughter was “wild and boy crazy” and “bound to end up pregnant.” Sarah said it was impossible for her to involve her parents in her problems with harassment and pleaded with her counselor not to contact them or to tell the administration who might in turn contact her parents. Below are five major issues in the form of questions that Sarah’s school counselor may face. The questions are designed to examine the complexities of protecting students’ confidentiality while adhering to the OCR guidelines of Title IX legislation.

• If Sarah reports sexual harassment to her school counselor and requests confidentiality, what is the counselor’s legal and ethical obligation toward Sarah and to potential victims

X Must Sarah be identified by name in a report of the harassment?

X What if Sarah continued to insist on confidentiality with the full knowledge that without using her identity the investigation would be severely hindered?

X What happens now that the boy accused of running his hand up Sarah’s blouse, vehemently denies the accusation and his parents demand full disclosure of the incident to include the name of the accused so that they may answer the charges having all the facts?

X Is this twelve-year-old able to make decisions surrounding the sexual harassment in isolation of her parents? What is the counselor’s legal and ethical responsibility to Sarah’s parents?

CASE 27 Harassment of Gay and Lesbian Students

You are a student service worker at a school for the performing arts. Males who major in dance or theater are often labeled gay. You know this to be true because students occasionally complain to you. You have conducted interviews and surveys about school climate and included questions about harassment of gays lesbians and males who choose theater and dance. You discover a fairly widespread problem. What are your obligations in this situation?

A fifteen-year-old, openly gay student asked you to help stop the daily harassment he has been enduring from other students. He tells you he receives approximately 25 anti-gay remarks a day and at least twice in the last five months he has been kicked and punched while on school grounds. He tells you the harassment is especially bad in Mrs. Smith’s class and that she has witnesses other students calling him faggot but has never reacted in any way. He also tells you he is willing to give the names of the students who have verbally and physically attacked him. What are your obligations in this situation?
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CASE 28    False Sexual Abuse

You coach tennis in the high school where you are a counselor. You have heard rumors that the volleyball coach is having an affair with one of her students. After an unscheduled tennis practice with two of your students you enter the coaches’ office and hear the frantic rustling of clothes and hushed whispers. After five minutes this coach and student emerge from behind closed doors and she mumbles something about looking for equipment and they hurry out. You are certain that your unscheduled appearance in the coaches office has interrupted a sexual encounter. You confront this coach who does not deny the allegation. Now what do you do?

CASE 29    Known Sexual Abuse

You are a high school counselor. One of your students confides in you that five years ago she was a victim of sexual abuse by her mother’s boyfriend. Four years ago the perpetrator left the home and moved to another state. She tells you that she never told anyone not even her mother. She begs you not to tell. What are your obligations?

CASE 30    Liability in Child Abuse Reporting

You reported a case of child abuse brought to your attention by a teacher. The teacher noticed a horrible slash mark across the back of a child’s neck and upon inspection the teacher saw that it extended way down the child’s back. The mark closely resembled a belt mark. You report the incident to the Child Abuse Registry. The subsequent investigation by Protective Child Services revealed a fall from a piece of playground equipment witnessed by the child’s soccer coach and team members. The parents deducted that the report came from the school and specifically from you. The parents are livid and are threatening to sue you. Can you be sued?

CASE 31    Child Abuse Records

You have reported a case of child abuse brought to your attention by a teacher. According to your school board policy, you create a record of this report? Does this record become part of the student’s record? Do parents have access to this information? Must the name of the reporting parties be on this record?

CASE 32    Child Abuse from the Past

You are a mental health professional in a middle school setting. You are working with a young woman who reveals she is a victim of incest that ended five years ago. You are already working with another young woman who is dealing with the same issue. After several months you decide it would be in the best interest of these two girls to bring them together. You also include 2 other young women who are incest victims, have been through years of counseling and are progressing well. You bring these four students together for weekly group counseling. You spend a great deal of time on the issue of confidentiality at the first meeting. You are comfortable that the students all understand the imperative to keep all revelations confidential. Is there an ethical dilemma here?
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CASE 35 Outspoken Regarding Employer’s Policies

You are a school counselor, school psychologist, social worker, or licensed mental health therapist employed by a (local school district, community agency). You are concerned about a policy which your (school district, agency) has established for the reporting of students who express suicidal ideation. You think the policy is an invasion of the confidentiality of your clients and eliminates counselor judgment. You write a letter to the editor of the local newspaper. Is there a legal dilemma here? Ethical issue?

Instead of writing a letter to the editor you just ignore the policy. Is there a legal dilemma here? Ethical issue?

CASE 36 Personal Responsibility

You are a school counselor, school psychologist, social worker, or licensed mental health therapist employed by a (local school district, community agency). You are a very reliable employee and have a solid reputation as an effective mental health professional. Your live-in boyfriend parties hearty on weekends and along with a group of friends, you usually end up consuming large quantities of alcohol. Several times the police have come when the neighbors have complained about the cars and the loud music. Lately, the parties have been getting longer and wilder. Does your behavior pose an ethical question?

CASE 37 Competence to Help

Currently money for juvenile justice programs is plentiful and the agency you work for has been going after several grants to help juvenile offenders. However, the treatment programs they say they will be offering are currently nonexistent. You are the only therapist on staff that works with minors and you have done very little work with minors who are juvenile offenders. You do not have the expertise to offer the specific treatment programs the agency has been promising in their grant applications. Administration tells you not to worry that they will send you for training or hire someone to offer the specific treatment. Is there an ethical violation here?

CASE 38 Grooming and Constitutional Rights

You are a high school counselor and your principal requires that all the student service workers help out at graduation. Your school has a tradition of a very formal, respectful, solemn graduation ceremony. A very strict dress and grooming code for graduation is enforced. Personally, you think the ceremony is stifled and pleases the adults more than the students but you remain silent and cooperative as it is a very beautiful ceremony. One of your students shows up for graduation with purple hair and the principal decides she cannot participate in the graduation ceremony. You tell the principal that you feel this student’s constitutional rights are being violated. Have you given the principal correct information?

CASE 39 Defamation by Counselor?

You are an agency mental health professional. At the agency Christmas party, a group of colleagues are engaged in a heated debate about teenage pregnancy. You reveal that one of your clients, Randall, has impregnated two girls, refused to accept responsibility, and seems quite proud of his “accomplish”. Your comments reach Randall. He and his mother seek legal counsel about whether or not you have committed slander. Have you?

CASE 40 Defamation by School Officials?

J.D. was not promoted to the ninth grade because he did “nothing” according to his teacher in eighth grade. His parents say he should be promoted because his failure to do work was the result of his handicap (he has been diagnosed as mildly ADHD). A joint conference is held with the parents, principal; teacher, and you, a student service worker in attendance. During the course of the conference you and explain to the parents of J.D. that he is “lazy and interested only in his social life”. J.D.’s parents bring suit against you for defamation. How will the court rule?
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CASE 41  Internet Defamation

A tenth grade student makes derogatory comments about an algebra teacher and the principal on his website. A page on the site is entitled “Why Fulmer Should Be Fired” and lists three reasons: “She shows off her f__king fat legs.” “The fat f__k smokes,” and “She is a bitch.” Under the heading, “Why Fulmer Should Die” is a diagram of Fulmer with her head cut off and blood dripping from her neck and a solicitation to give $20 to help pay for a hit man. The web site is not password protected and carries a disclaimer that required agreement that the visitor was not a member of the school district faculty or administration and that the visitor did not intend to disclose the identity of or cause trouble for the website creator. Fulmer finds out about the web site and sues. Will she win?

CASE 42  Letters of Recommendation

CASE 43  Shoplifting

A sixteen-year-old student discusses with you her compulsive shoplifting activity. She gives you the dates, times, and places of her past shoplifting. Do you have a duty to report this to the authorities? To her parents?

CASE 44  Destroying a Bulldozer

A sixteen-year-old student discusses with you a plan to destroy a bulldozer which will be used to clear environmentally sensitive land. Are you obligated to report this information to the police? To his/her parents?

CASE 45  Civil Disobedience

Case 46 Responsibilities to Fellow Citizens

It was reported to you by another student who asked for confidentiality that David Cash, another student of yours has been telling people all around school that he witnessed the murder of a child by his friend Jeremy Strohmeyer in a casino in Las Vegas. He said the two friends had been drinking for the better part of the day and that they started playing hide and seek with a seven-year-old girl. Jeremy followed the child as she ran into the restroom to hide. David relays how he entered the restroom a few minutes later and saw his friend sexually assaulting and strangling the young girl but he said nothing, left the restroom, and waited for Jeremy to emerge. The young girl is found dead. Jeremy, the murderer is charged and David testified at the trial but has not been charged. David claims he did nothing wrong and appears to enjoy relating the story. What will be your reaction? Your actions?

CASE 47  Consultant and Confidentiality

School climate is especially glum at your school. You are asked to try to address the situation which you believe involves discontent over the administration among other issues. You agree to conduct small focus groups with all grade levels to try to determine causes. You conduct the focus groups and analyze the feedback into five categories that seem to capture the concerns. One of the categories is administration. Issues under administration concern areas such as inconsistency, showing favoritism, and the perception that the principal is prejudice. This last complaint came from only two people whose judgment you believe is suspect. When making your report to the principal, she asks you for the names of the people who believe she is prejudice. What is your response? Does informed consent play a role in this ethical dilemma?
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Case 48  Consultant to Teachers

As a student service worker you know a great deal about different teachers’ classroom management effectiveness. You are acutely aware that one teacher in your school has chronic behavior problems no matter what students are assigned to her. You believe students are suffering academically and emotionally under her. From your observations, the administration of the school seems unaware. What is your responsibility in this situation?

Case 49  Consultant to Teachers under Adverse Circumstances

Case 50  Hatch Amendment

You do not obtain written or oral parental permission for individual counseling. Are you acting legally? Ethically?