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Utilizing a Case Study and an Ethical Decision-Making Model for Supervision and Counselor Education

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Abstract

Legal, ethical, and professional standards sometimes conflict in actual counseling experiences, supervision, and practice. In order to better understand supervision caveats, a study of a legal case involving a former counseling education student is examined using the ethical decision-making process described by Sileo and Kopala (1993). The Ward v. Wilbanks (2009) case warrants review because of the American Counseling Association Code of Ethics and standards associated with the court decision. Counselor educators, supervising counselors, and counselors in training may benefit from the information in this article.

Keywords: supervision, gatekeeping, codes of ethics, ethical standards, ethical decision-making process

Ethical decision making is a challenging process for counselor educators, supervisors, and supervisees. Counselor educators have gatekeeping responsibilities to ensure that counselor trainees uphold ethical standards in their service delivery with clients. One way educators and supervisors can disseminate the intricacies of diverse best practices in client care and assist students to learn about ethical dilemmas is to examine court cases and interject one of the ethical decision-making models available to counselors. Supervising counselors who are diligent about training counselors in the field could benefit by utilizing case studies and legal briefs to aid in making complex decisions that could involve personal counselor traits. Sometimes counselors-in-training are faced with countertransference or other ethical dilemmas and may want an ethical decision-making model for guidance.
There is the potential for the court case of Julea Ward (plaintiff) versus Roy Wilbanks et al. (defendants) to impact the counseling profession in the future with allegations of discrimination against clients based on sexual orientation (Kaplan, 2014). The implications of the court case of Ward v. Wilbanks (2011) and the Sileo and Kopala (1993) decision-making model were chosen as the backdrop for this article.

Case History

Julea Ward was the plaintiff and Roy Wilbanks et al. were the defendants in a case involving allegations of discrimination against clients based on sexual orientation, which is a violation of the 2014 Code of Ethics published by the American Counseling Association (ACA; Kaplan, 2014; Ward v. Wilbanks, 2011) and the Council for Accreditation of Counselor and Related Educational Programs (CACREP) Standards (2009). Julea Ward was a teacher who returned to college at Eastern Michigan University (EMU), a CACREP-accredited university, with a goal of becoming a school counselor (Ward v. Wilbanks, 2009). While working in a practicum setting, she was confronted with what she believed was a conflict of interest when assigned a client (Kaplan, 2014; Wheeler & Bertram, 2012) who had requested couples counseling (Ward v. Wilbanks, 2009). Ward asked to be excused from counseling the couple who was same-sex, noting her refusal was based on her religious beliefs (Ward v. Wilbanks, 2009). An informal review at EMU followed, during which Julea Ward was given three choices, including: completing a “remediation program” as directed by the counselor education faculty, voluntarily leaving the counseling program, or requesting a formal hearing (Ward v. Wilbanks, 2009, 2011; Wheeler & Bertram, 2012). Ward refused to participate in the remediation program and instead chose to have a formal hearing. Ward noted she had not violated the American Counseling Association Code of Ethics or the American School Counseling Association’s Ethical Standards for School Counselors (Ward v. Wilbanks, 2009) and had in fact written a paper about her religious beliefs prior to her beginning practicum (Ward v. Wilbanks, 2009). Ward was dismissed from the counselor education program at EMU (Wheeler & Bertram, 2012).

On June 24, 2010, the Alliance Defense Fund (ADF) filed a lawsuit on behalf of Julea Ward against the master’s in counseling education program at EMU for violation of her First Amendment and Fourteenth Amendment rights regarding her religious beliefs (Kaplan, 2014; Ward v. Wilbanks, 2009). The plaintiff’s motion for summary judgment was denied and EMU’s motion for summary was granted (Ward v. Wilbanks, 2009) and upheld in a court of appeals (Ward v Wilbanks, 2011).

According to Wheeler and Bertram (2012), the Ward v. Wilbanks case decisions provided important background information regarding counselor educators’ gatekeeping responsibilities. Kaplan (2014) provided expert testimony in the Ward v. Wilbanks case as a representative of the American Counseling Association. Kaplan noted it is clear that the definition of a client begins at the moment an individual requests assessment. Ward’s attorney argued that the ethical violation did not pertain to her because the individual assigned to her was not yet a client. Ms. Ward’s complaint stated that she did not impose her religious views regarding homosexual behavior on the client because she had never met the client (Ward v. Wilbanks, 2009, 2011). Ward claimed that because of her religious beliefs, she had the right to refuse to counsel any individual that wants to
discuss a same sex-relationship or individuals engaging in unmarried sexual relationships (American Civil Liberties Union, 2011).

**American Counseling Association Ethical Standards and a Case Review**

There are several ethical standards from ACA and CACREP that can be applied to the decisions and conflicts involved in the *Ward v. Wilbanks* (2009, 2011) case decisions. The first ethical standard in question regarded the counseling profession’s stance to protect client classes such as race, ethnicity, gender, disabilities, and sexual orientation through the nondiscrimination section (Standard C.5.) of the *ACA Code of Ethics* (ACA, 2014, p. 9). According to Kaplan (2014), the arguments in this case are the following: (1) is it permissible to deny counseling services to a homosexual individual based on the counselor’s values, (2) could a counselor make a referral at any time they want to, and (3) when is a client a client?

The *ACA Code of Ethics* (ACA, 2014) nondiscrimination section (Standard C.5.) states, “Counselors do not condone or engage in discrimination based on age, culture, disabilities, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law” (p. 9). Refusing to provide services based on the counselor’s personal religious beliefs also could be perceived as an *ACA Code of Ethics* conflict under Standard A.4.b., which focuses on personal values:

Counselors are aware of—and avoid imposing—their own values, attitudes, beliefs and behaviors. Counselors respect the diversity of clients, trainees, and research participants and seek training in areas in which they are at risk of imposing their values onto clients, especially when the counselor’s values are inconsistent with the client’s goals or are discriminatory in nature. (p. 5)

According to Kaplan (2014), clients become official clients upon their first contact with an agency and referrals of clients to other counselors must be a last resort and not taken lightly. The stance that clients are to be treated by the counselor to whom they have been assigned is also delineated in the ethical standards of the counseling profession (Kaplan, 2014). The *ACA Code of Ethics* (2014) contains a statement in regard to abandonment of clients. Standard A.12., entitled “Abandonment and Child Neglect,” clearly states, “Counselors do not abandon or neglect clients in counseling” (ACA, 2014, p. 6). The *ACA Code of Ethics* also allows counselors to terminate the client/counselor relationship under three conditions: “When it becomes reasonably apparent that the client no longer needs assistance, is not likely to benefit, or is being harmed by continued counseling” (Section A.11.c.).

Many counselor education programs are encouraged to become accredited by CACREP, an entity with the goal of ensuring that training programs are preparing students to form professional identities and ensure quality client care as counselors upon graduation (CACREP, 2009). Several CACREP standards reinforce the ethical stances of equitable and inclusive client treatment. Section I.K.1. addresses the gatekeeping responsibility of faculty to ensure applicants to the master’s degree program will have potential success in forming “relevant interpersonal relationships in individual and small-group contexts (CACREP, 2009). Section II.G.2.f. highlights counselors’ social and cultural competency development, specifically addressing counselors’ roles in
eliminating oppression and discrimination. Under the Professional Practice heading in the Diversity and Advocacy section, the development of knowledge of counselor trainees standard notes that students are to be trained to recognize societal trends and develop competency in working with same-sex couples (CACREP, 2009, Section E.2.).

**Utilizing Case Review and an Ethical Decision-Making Model for Training**

There are several ethical-decision making models available to supervisors and counselor educators. The Sileo and Kopala (1993) A-B-C-D-E Ethical Decision-Making Model is one such model that involves five steps: Assessment, Benefit, Consequences and Consultation, Duty, and Education.

**Assessment**

For a supervisor or counselor educator using the Sileo and Kopala (1993) model to process making an ethical decision in supervision, the first step involves assessment. The assessment process in ameliorating a situation such as that in *Ward v. Wilbanks* would focus first on the decisions made by a counselor trainee. When any counselor trainee has asked to be excused from working with clients who had relationship issues, this is a training opportunity. A counselor trainee refusing to see any clients based on personal religious beliefs requires an intervention. Part of this intervention should entail a discussion about the overarching ethical stances of beneficence, nonmaleficence, and client autonomy. Next, a supervisor or counselor educator could use various decision trees in discussing the oversight of a client’s care. Also during the assessment stage, possible explorations/discussions about countertransference would need to be held with a counselor trainee who discloses conflict with a client’s values, feelings, and reactions. Another suggestion would be for supervisors and counselor educators to meet with the supervisee to hold discussions about putting the needs of clients as the topmost consideration in planning client care, as suggested by Kaplan (2014).

**Benefit**

The (B) benefit section of the Sileo and Kopala (1993) model entails asking which decision would benefit the parties in the ethical dilemma. Questions about diversity and respecting client’s autonomy could be asked of the trainee. Also, ways the trainee might enhance or gain new multicultural and diverse perspectives would be a challenge, but also a growth possibility for the trainee. The lack of benefit to a potential client who is receiving counseling from someone who refuses to discuss relationships is to be addressed. An important set of questions would be: Will the clients benefit? Will the therapeutic relationship be possible with the clients?

**Consequences and Consultation**

During the beginning stages of Ward’s counseling training, she shared concerns regarding the potential for religion-based value conflict and personal views of homosexuality being morally wrong. During the (C) consequences and consultation stage of the ethical decision-making model, a supervisor could utilize this opportune time to teach about the ethical codes of conduct, legal aspects of refusing to see clients, the consequences of personal growth, and the possible negative consequences when helpers
do not build a therapeutic alliance with clients and communities. Supervisors can point out that working with diverse and new clients can teach the trainee about tolerance, acceptance, and understanding clients’ values. Counselor trainees would benefit from the value clarification that in counseling, the client needs come first. The consequences of the trainee refusing to care for a client because of personal beliefs and biases can prompt a series of ethical violations and possible legal liability.

**Duty**

The next aspect of the ethical decision-making model by Sileo and Kopala (1993) is the duty (D) to follow ethical standards in caring for clients. The 2014 ACA Code of Ethics states that the professional counselor may not refuse or deny counseling services to a homosexual person on the basis of the counselor’s values or beliefs (Standard C. 5.). There are potential credibility and collegiality threats should some members of the counseling profession promote discrimination against clients based on sexual orientation (Sileo & Kopala, 1993). It is considered quality care when client referrals are to be made on the basis of skilled-based competencies and not the values of the counselor. The counselor has an ethical obligation to the client starting at the first initial contact or assignment, not at the first session (Kaplan, 2014). In most situations, the counselor has a duty to the client, but there was one different aspect to the case regarding Ward v. Wilbanks (2009, 2011) In the case of Ward v. Wilbanks, the situation of relationship counseling occurred after individual counseling was initiated and relationship counseling was requested. One question to explore with a trainee: Should a client who is receiving individual counseling be referred to someone else for couples counseling?

**Education**

In the education (E) stage of utilizing an ethical decision-making model, counselor trainees need to be familiar with laws of the state within which they practice (Sileo & Kopala, 1993). The counselor and counselor trainee must also take into account the changes or amendments that are made in state laws and ethical standards. Furthermore, the precedents set in court cases may supersede and support other decisions in future court cases (Sileo & Kopala, 1993). The ethical decision-making process is complex and can require the consideration of multiple alternatives before taking action. In any supervision experience, the supervisor’s duty is to assess the situation and consider both the counselor trainee and the client. The counselor trainee must identify their own value conflicts and not make decisions based on personal biases or belief systems when dealing with clients. While supervising, best practices dictate the confrontation of any possible counselor trainee ethical breaches and/or dilemmas, recognizing the trainee’s strengths and weaknesses, and utilizing a decision-making model when faced with the possibility of client care conflicts.

Ethical dilemmas can occur with the gatekeeping responsibilities of counselor educators and supervisors when considering decisions about supervisee behavior. For example, Eastern Michigan University held Ward accountable for meeting CACREP and ACA Code of Ethics conduct standards, but did not appear to follow the same guidelines when accepting Ward into their program. Eastern Michigan University accepted Ms. Ward into the counseling program knowing about her orthodox Christian beliefs that were documented in her application to the university, according to the Ward v. Wilbanks
(2009) case notes. Also in the case notes, there is a notation that Ward wrote a paper for class indicating the potential for her religious-based values to become a conflict of interest with future clients, and on which she received a perfect score (Ward vs. Wilbanks, 2009). One possible lesson for counselor educators would be the importance of exploring potential ethical dilemmas before a counselor trainee enters practicum and internship courses.

Legal Issues

If there is a lack of compliance with professional codes of ethics and violations transpire toward any individual regarding discrimination of sexual orientation, the counselor could be subject to a lawsuit and potentially face ramifications with the state licensing board. Failure to follow through with a duty to treat someone who is an established client may also be an issue. A counselor trainee should consider all aspects of the ethical and legal dilemmas while consulting with the supervisor, the professional ethical board and codes, and accepting the standards of best practices for quality client care (Sileo & Kopala, 1993).

Most states have laws regarding counselors and standards of care written into counselor licensure laws. Although counselor trainees do not yet have professional licenses, the training offered in counselor education programs should include information about the legal standards of client care. The court case of Ward (plaintiff) versus Wilbanks (defendants) set a legal precedent only applicable for constituents in the state of Michigan. Counselors and counselor educators should encourage state legislators to establish state legal codes to protect clients from any form of discrimination regarding the classes such as race, ethnicity, gender, disabilities, and sexual orientation. On December 10, 2012, Eastern Michigan University settled with Ward for $75,000 to resolve the litigation rather than continue spending money on a costly trial (Stone, 2013).

Implications for Supervisors and Counselor Educators

Court case discussions involving client care decisions made by counselors are critical to deepening an understanding of the American Counseling Association ethical codes and the Council for Accreditation of Counselor and Related Educational Program’s standards. These edicts were written with the purpose of protecting a client’s rights to equality in counseling services and to serve as guidelines for best practices. The counselor trainee can learn through supervision to understand that personal values, attitudes, and beliefs are not the precedent for ethical decision making in the counseling field, but that the client’s needs are to be considered first and foremost (Kaplan, 2014). Refusing to care for a client because of a counselor’s personal religious beliefs is a major violation of the ACA Code of Ethics and could be damaging to both the client and the professional counselor’s status and reputation.

The American Counseling Association presented the ethical issues of the Ward v. Wilbanks (2009, 2011) case in an article and an opinion to the court written by Kaplan (2014). This article can be assigned to counselor trainees as part of a legal and ethical counseling course or discussed with supervisees during practicum experiences. Another discussion point included in the Kaplan article was the gatekeeping responsibility of
supervisors and counselor educators. Guidelines for gatekeeping are emphasized in the *ACA Code of Ethics* and CACREP standards. Further, Kaplan also asserted that client referrals are to be made on the basis of competence and not the values of the counselor. Additionally, abandonment of a client should be avoided and referral to another clinician should be a last resort (Kaplan, 2014). Finally, an important lesson for supervisees is that the counselor’s ethical obligation to the client starts at first contact or assignment and not during the first session (Kaplan, 2014).

There are benefits to exploring supervision implications and topics for discussion involving court case reviews. Some of the factors that influence supervision and supervisee training in ethical standards and practices are academic requirements, agency policies and procedures, ethical codes, and court decisions. There are more lessons to be learned by all helping professionals, from counselor educators to supervisees, from the processes involved in ethical decision making and client care.

**References**


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