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## Article 36

### **Doctoral Student Ethical Scenario: The Case of Callie**

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This case study (see Appendix) presents a number of ethical dilemmas typically faced by both school counselors and clinical supervisors. Callie is an experienced elementary school counselor currently pursuing her LPC and Paul is her clinical supervisor. Callie's school principal has requested a list of students and parents/guardians she counsels on a weekly basis and a list of community providers with whom she refers and consults. This data is solicited to complete a quarterly report on school resources and activities. Callie is concerned about disclosing this information, as it is her ethical responsibility to protect client confidentiality. Her reluctance to provide the names is compounded by her prior experience of instances when the principal disclosed confidential information to others, particularly his secretary. Furthermore, Callie has witnessed the secretary sharing confidential information with instructors. Callie seeks Paul's advice on how to proceed in order to uphold her ethical, moral, and legal responsibilities without jeopardizing her job.

## **Selection of Ethical Decision Making Model**

Callie and Paul must rely on the ethical standards of the profession to navigate this situation. The American Counseling Association Code of Ethics (ACA, 2005) provides guidance for counselors faced with such issues. The ACA Code of Ethics states, “when counselors are faced with ethical dilemmas that are difficult to resolve, they are expected to engage in a carefully considered ethical decision-making process,” (ACA, 2005, p. 3). There are a number of ethical decision-making models from which to choose (e.g., Cottone, 2001; Davis, 1997; Forester-Miller & Davis, 1996; Kitchener, 1984; Remley & Herlihy, 2005; Seymour & Rubin, 2006). The ACA Code of Ethics does not endorse any one model over others, thus we evaluated the benefits and limitations of several models.

In evaluating Seymour and Rubin’s (2006) model, we noted implementation of the voices of major stakeholders in an issue. However, this model lacked a comprehensive formula for decision-making that incorporates ethical standards. Next, we considered a more open-ended method of decision-making by analyzing the case in terms of Kitchener’s (1984) virtue ethics. However, we desired a concrete and sequential methodology, and sought a model including consultation as a means of minimizing bias. Ultimately, we selected the ACA Ethical Decision Making Model (Forester-Miller & Davis, 1996) to guide our process.

The ACA Ethical Decision Making Model (Forester-Miller & Davis, 1996) was chosen for its direct application of the ACA Code of Ethics, the implementation of Kitchener’s (1984) virtue ethics, the inclusion of consultation, and the addition of a self-evaluative process regarding the final decision. The model outlines seven steps for decision making: 1) identify the problem; 2) apply the ACA Code of Ethics; 3) determine the nature and dimensions of the dilemma; 4) generate potential courses of action; 5) determine the possible consequences of all options and determine a course of action; 6) evaluate the selected course of action; 7) implement the course of action (Forester-Miller & Davis, 1996). We amended step #2 to consider other applicable ethical codes in addition to the ACA Code of Ethics. Step #3 was also modified to include the perspectives of multiple stakeholders using Seymour and Rubin’s P<sup>3</sup> (Principles, Principals, and Process) model for ethical decision-making (Seymour & Rubin, 2006). We will use this amended decision-making model to approach the ethical case at hand.

### **Step #1: Identify the Problem**

The first step in the model is to identify the problem (Forester-Miller & Davis, 1996), and two primary aspects of this case must be considered. First, Callie is being asked to violate confidentiality by providing identifying information about her clients for a quarterly report. Second, the school environment may include inappropriate practices, as both the principal and secretary have previously been known to share confidential information with others.

### **Step #2: Applying the ACA Code of Ethics and Other Applicable Ethical Codes**

The next step is to apply appropriate ethical codes to the problems at hand. A central purpose of the ACA Code of Ethics is to guide counselors in appropriate action to best serve clients and promote the values of the counseling profession (ACA, 2005). The

ACA Code of Ethics includes a section on Supervision, Training and Teaching (ACA, 2005) that identifies Paul's ethical responsibility as a supervisor. The Center for Credentialing and Education's (CCE) Approved Clinical Supervisor (ACS) Code of Ethics (CCE, 2008) also applies to this case if Paul holds the ACS credential. Since Callie is an elementary school counselor, we will also consider the American School Counselor Association Ethical Standards for School Counselors (ASCA, 2004). If we had been aware of NCC certification status or organizational membership, we would have applied the Code of Ethics from the National Board of Certified Counselors (NBCC, 2005) and/or other applicable ethical codes. We will proceed by exploring the ethical considerations of this case.

Managing confidentiality is a widespread and challenging issue facing school counselors (Isaacs, 1999). In fact, Hermann (2002) surveyed school counselors and found 19% had been asked to turn over confidential records in the past year. The ACA (2005) and ASCA (2004) Codes are clear in their directives to maintain client confidentiality. The ACA Code of Ethics establishes trust and confidentiality as two cornerstones of any counseling relationship, and counselors are expected to discuss with clients "how, when and with whom [client] information is to be shared" (ACA, 2005, B.1.a, p.7). ACA Codes B.1.b and B.1.c. state counselors must respect client rights to privacy and "do not share confidential information without client consent or without sound legal or ethical justification" (ACA, 2005, p. 7). Elementary school students are not of age to provide consent, thus appropriate third party adults (including parents/guardians) must provide permission when information is disclosed about a minor client (ACA, 2005, B.5.c, p. 8). However, since Callie identified confidentiality as her primary concern, we assume she has not obtained releases to disclose the names of her clients.

When working with minors, parent/guardian alliances are important. While professional school counselors have a "primary obligation to the student" (ASCA, 2004, A.1.a., p.1) it is also expected that parents and legal guardians are educated about confidentiality in the counseling process (ACA, 2005, B.5.b., p.8). ASCA Code B.2.a states counselors "inform parents/guardians of the counselor's role with emphasis on the confidential nature of the counseling relationship between the counselor and the student," (ASCA Code, 2004).

Additionally, when working with minors, counselors are expected "to protect the confidentiality of information received in the counseling relationship as specified by federal and state laws, written policies, and applicable ethical standards" (ACA, 2005, B.5.a, p. 8). The majority of elementary school counselors (83%) discuss confidentiality with their elementary school students during the first session (Issacs, 1999). As an experienced elementary school counselor, we presume Callie has explained confidentiality and the limits to confidentiality (e.g., danger, legal requirements, contagious diseases, court ordered disclosures) to the students and parents/guardians she serves.

When a counselor is receiving supervision, their clinical supervisor also has responsibility in the resolution of ethical dilemmas. The ACA Code of Ethics states supervisors should educate supervisees about client rights including privacy and confidentiality (ACA, 2005, F.1.c, p. 14). Counselors are expected to ensure subordinates (including supervisees and clerical assistants) adhere to confidentiality (ACA, 2005, B.3.a, p. 7). The ACS Code indicates supervisors shall "ensure that supervisees inform

clients of their right to confidentiality and privileged communication” (CCE, 2008, p. 1). While Callie understands her responsibility as a counselor and supervisee to follow the ACA Code of Ethics (ACA, 2005, C.1, p.9; ACA, 2005, F.1.a., p. 13), Paul is also required to remind her of such responsibilities and discourage her from disclosing confidential client information to her principal without signed consent forms.

Although the Association for Counselor Educators and Supervisors (ACES) *Best Practices* document is still under revision, it offers items that also apply to this case. As the supervisor, Paul is responsible to guide Callie’s critical thinking process about various ethical issues that arise in her clinical work, to instruct how to apply appropriate ethical codes, and to be knowledgeable of prevalent ethical violations and how to minimize them (ACES, 2009, Ethical Considerations Section, item #1, p. 8). If Callie divulged information about her students to the principal, this would be a clear violation of the ACA (2005) and ASCA (2004) codes. It will be important for Callie and Paul to work together to ensure the confidentiality of her students is maintained and no ethical violation occurs.

The second problem in this case includes the elementary school environment fostering inappropriate policies and practices, as both the principal has asked for confidential information to be disclosed, and the principal and secretary have previously been known to share confidential information with others. Each of these practices could be “potentially damaging to clients and limit the effectiveness of [counseling] services provided” (ACA, 2005, D.1.h., p. 11). Huey (1986) denotes, Callie’s ethical responsibility is first to her students and second to her employment. However, since Callie is an employee of the school, it is implied she agrees with the general policies and principals of the school (ACA, 2005, D.1.g., p. 11). Since these policies require her to violate her ethical obligations, Callie should inform school administration and attempt to change the standard so she is not required to breach confidentiality (ACA, 2005, D.1.h., p. 11).

The American School Counselor Association (ASCA) National Model also requires Callie to “take appropriate action to rectify the condition” (ASCA, 2005, p. 149). The ASCA National Model (ASCA, 2005, p. 24) states that as an advocate, Callie is mandated to address the needs of her students “at every level of the school experience.” This may require her to collaborate with internal school stakeholders to address concerns impacting confidentiality and consult with other professionals in order to ensure no harm to students.

### **Step #3: Determining the Nature and Dimensions of the Dilemma**

The third step in the model is to determine the nature and dimensions of the dilemma. Incorporating the P<sup>3</sup> formula (Seymour & Rubin, 2006) into this step, we will follow accurate *Process* to consider all the *Principles* and *Principals*. The *Principles* consist of the virtue ethics cited by Kitchener (1984) including justice, non-maleficence, beneficence, autonomy, and fidelity. The *Principals* are the stakeholders, including Callie and Paul; the students and their parents/guardians; and the school principal.

From the perspective of Callie and Paul, justice involves taking steps to ensure the protection of the clients and implementing the applicable ethical code. Non-maleficence and beneficence include maintaining privacy. Throughout the process, Paul should respect Callie’s autonomy and knowledge about the situation and school environment.

Regarding fidelity, Callie is expected to actively work against disclosing confidential student information, including student participation in counseling (Glosoff & Pate, 2002). Paul, while still looking after the best interest of the student clients, should also examine his commitment to Callie as his supervisee.

From the standpoint of the students and parents/guardians, justice would include Callie and the school system respecting their privacy. Glosoff, Herlihy, and Spence (2000) note that most individuals seeking counseling assume their information will be kept in confidence. Regarding non-maleficence, in order to avoid harm, no personal information should be disclosed without student and parent/guardian consent. Under the category of beneficence, some parents/guardians may be comfortable providing information to contribute to a report designed to enhance services in the future. Autonomy would allow for the students and their parents/guardians to make their own choices about whether or not to be included in this report without Callie and Paul passing judgment or imposing their own goals (Herlihy & Corey, 1996). To uphold fidelity, the students and parents/guardians may see Callie's responsibility to keep the promise of confidentiality.

The school principal's primary responsibility is to ensure the education and well being of students (American Association of School Administrators, 2009). From his standpoint, justice involves acting in the best interest of the students and other stakeholders in the school system. Beneficence and non-maleficence include serving his students. In fact, the American Association of School Administrators' Code of Ethics (AASA, 2009) encourages educational leaders to serve others above self. The National Education Association Code of Ethics (NEA, 2009, p. 1) indicates as an educator, he should, "make reasonable effort to protect the student from conditions harmful to learning or to health and safety." In order to practice the ideal of autonomy, he should respect the rights of students, the other stakeholders. Finally, to maintain fidelity, the principal shall no longer "disclose information about students obtained in the course of professional services" unless required by law (NEA, 2009, p. 1).

#### **Step #4: Generate Possible Courses of Action**

The next step is to generate multiple possible courses of action. Many choices can be made in this case, ranging from completely ignoring the situation to providing the information with no questions asked, with many options in between. The purpose of this step is to brainstorm openly about all the possibilities, regardless of consequences, and to ensure all available options are considered. Accordingly, possible courses of action, listed in no particular order, include: 1) ignore the situation; 2) gather more information about the situation, including previous incidents, local policies and regulations, and expectations of stakeholders; 3) consult with the ACA Ethics and Professional Standards Department, other school counselors, other helping professionals within the school, the Director of Counseling for the school district, other LPS supervisors with school counseling experience; 4) comply with the request and generate the requested list in a timely manner; 5) refuse to comply with the request based on ethical responsibility; 6) contact every parent/guardian and student to secure permission to disclose information; 7) educate the principal about ethical requirements and negotiate to present the information in such a way to meet the principal's goals but does not compromise confidentiality; 8) present the information in a coded format to protect student privacy.

**Step #5: Consider the Possible Consequences of All Actions and Choose an Action**

The fifth step involves considering possible consequences and developing an action plan.

**Ignore the situation:** While ignoring the request may eventually result in the information no longer being needed, it is also possible that ignoring the request may cause Callie to appear resistant or insubordinate to the principal. This could become the impetus for a power struggle between the two and the purpose of protecting student privacy may be lost.

**Gather more information:** Understanding more about each individual's priorities in the situation, along with a clear review of precedents and policies, may reveal a solution that could satisfy everyone. Callie and the principal could engage in open dialogue to assess if the number of clients seen (vs. their identities) and a general list of providers offering services in the school would suffice for his report. At least two outcomes could arise from this conversation. The principal could still require Callie to submit all the names of agencies and the students and parents/guardians she counsels, or he might allow Callie to report this data without any identifying information. Callie could submit coded data without breaking ethical violations.

**Consult:** The applicable ethical codes in this case encourage counselors to consult when faced with ethical dilemmas, as consultation increases the likelihood of seeing the situation from multiple perspectives to identify an appropriate solution (ACA, 2005; ASCA, 2004; ASCA, 2005). Other helping professionals, such as school social workers and psychologists can share their experiences with similar situations. Again, the consultation process may take some time, causing Callie to appear insubordinate. It is also possible that even with consultation, no concrete solution can be found to satisfy all parties.

**Comply with the request:** Generating the lists as requested and submitting them promptly would certainly appease the principal. However, this would clearly be a violation of the ethical code to protect confidentiality (Kaplan, 1995) and could lead to justifiable complaints from students and parents/guardians. Additionally, the secretary could learn of the information and discuss it with other instructors, as Callie has witnessed in the past. Thus, offering the information, given Callie's previous knowledge, could constitute negligence on her part.

**Refuse to provide the information:** A flat refusal, even in the name of compliance with ethical standards of protecting privacy, will more than likely be seen as unprofessional and insubordinate on Callie's part. It is possible the principal would understand her objection, but this is not likely based on the power differential between them.

**Get permission from students and parents/guardians:** Obtaining releases from the affected parties would protect Callie from violating confidentiality. Doing so may also raise questions from students and parents/guardians regarding who will have access to the data and how it will be used. This may cause students to withdraw from counseling for fear of others learning about their personal challenges. In addition, some parents/guardians may not agree to disclose the information, thus leaving Callie to submit an incomplete and inaccurate list of students counseled.

**Educate the principal and negotiate for alternative method of information presentation:** Callie could educate the principal about applicable ethical codes. She could

approach this conversation with him in a professional and tactful manner, citing specific sections of ethical codes that stress the importance of privacy and confidentiality (for example, ACA Code of Ethics B.1.b and B.1.c; ASCA Code A.2.a. and A.2.e.; and NEA Code 8). With this knowledge, the principal may collaborate to find a “win-win” solution. As a new principal, he may be appreciative of the information, or may be resistant to listen to the school counselor.

Present the information in coded format: Concrete information about numbers of sessions and consultation services available in the school community could be made available to the principal. This option would protect student privacy, and may also meet the principal’s goals for a report on community activities. Other professions regularly code confidential information for reports (Gaudet et al., 1999), however, the principal may accept or reject this data, depending on the specific identifying information he needs.

Based on the analysis of available options, we recommend Callie take the following steps in the order listed, attempting resolution at the end of each step and proceeding only if necessary: 1) gather additional information from the principal about the requirements and purpose for the quarterly report; 2) seek outside consultation (including contacting the ACA Ethics and Professional Standards Department, school counselors, mental health providers associated with the school, LPC supervisors with school counseling experience, and the Director of Counseling for Callie’s school system, if one exists); 3) educate the principal about the importance of compliance with the ACA Code of Ethics, communicating that Callie wants to provide him with the information he needs while being compliant with the applicable codes; 4) offer a coded version of the information requested after educating the principal about the reasons why it is being offered; 5) arrange a meeting between the principal, Paul, and Callie to devise a plan that will meet the principal’s goals without requiring Callie to breach confidentiality.

#### **Step #6: Evaluate the Selected Course of Action**

The next step involves the self-evaluative portion of the decision-making process.

Gather additional information: Callie’s first step is to gather information from the principal about specific requirements of his quarterly report. The ACA Code of Ethics states, “counselors strive to resolve ethical dilemmas with direct and open communication among all parties involved” (ACA, 2005, p. 18). Callie would meet ethical guidelines by opening the lines of communication with her principal about this issue. If the principal continued to insist upon knowing the names of students and parents/guardians seen, the next step would be to consult.

Consult: If either Callie or Paul belongs to the American Counseling Association (ACA), they would be eligible to receive free consultation from the ACA Ethics and Professional Standards Department by phone or email (ACA, 2009). Callie would certainly consult with other school counselors and the director of counseling to inquire if they have been in a similar situation and if so, how they handled it. Callie might consult with any other mental health providers within the elementary school, who would likely be bound by similar ethical guidelines and, therefore, could not submit the names of their students to the principal either. Callie could talk with them about how they plan to proceed with the request to provide the confidential information. Paul would consult with other clinical school counselor supervisors to determine how they have guided



supervisees to act when faced with similar ethical dilemmas. The decision to consult is guided and supported by the ACA Code of Ethics (ACA, 2005).

Educate the principal: It is important for Callie to educate the principal about her obligation to follow applicable codes of ethics. Callie is aware of the importance of confidentiality in both the counseling and educational professions (ACA, 2005; NEA, 2009). She can discuss their joint responsibility to uphold confidentiality so that he does not view her failure to submit client names and associated agencies as blocking progress (Kaplan, 1995). The ASCA Code recommends Callie to “establish and maintain professional relationships with faculty, staff and administrators to facilitate an optimum counseling program” (2005, C.1.a. p. 146). Accordingly, Phillips (2007) explains a method for school counselors to tactfully educate staff on the ethical codes so educators understand the importance of confidentiality. This approach may help counselors be viewed as a team player instead of an inhibitor to advancement.

If, after discussing the ethical guidelines, the principal still insisted on obtaining the names and agencies, Callie would be expected to address this with him as a potentially inappropriate school policy. ACA Code of Ethics D.1.h states counselors “Alert their employers of inappropriate policies and practices. They attempt to effect changes...through constructive action within the organization” (ACA, 2005, p.11). The relationship between Callie and the students could suffer irreparable harm from the disclosure, resulting in students withholding information from Callie. Additionally, if parents/guardians feel betrayed by Callie, they could prevent their students from seeking counseling in the future and undermine treatment goals and progress (Phillips, 2007). As a tactic of last resort, and only if she had specific incidents to report, Callie could cite examples of other times confidential material was not held in confidence by either the principal or the principal’s secretary. By attempting to effect change in her school, Callie would be following the ACA Code of Ethics (ACA, 2005, H.2.e., p. 19)

Submit a coded version of the data: After educating the principal, Callie could submit a coded version of the data including the number of students seen each day and the length of time they met. She might also provide a general overview of the topics discussed in sessions, without going into any specifics. For example, a list might include “school support, connection to community resource, and peer conflict resolution.” Callie could also list the community providers that offer support to her students, without identifying which students receive specific services. Submitting this information would not be in violation of professional ethical standards and, therefore, would be an appropriate course of action.

Meet with Callie, Paul, and Callie’s principal: Callie’s principal may still require the information. ACA code D.1.h states when “policies are potentially damaging to clients or may limit the effectiveness of services provided counselors take appropriate further action” (ACA, 2005, p.11). To begin, such action would include Paul, Callie, and the principal meeting to devise a plan to meet Callie’s ethical obligations and fulfill the principal’s responsibility. If the issue was not resolved during this meeting, Callie and Paul may need to consult with the ACA Ethics and Professional Standards Department again to discuss next steps to “take appropriate further action” to resolve the dilemma (ACA, 2005). Further action might include referral to the principal’s ethical boards (e.g., AASA or NEA) or Callie’s voluntary termination of employment. We are cognizant of

Callie's financial need to remain employed to care for her family, thus this would be an option of last resort.

### **Step #7: Implement the Course of Action**

The final step in the ACA decision-making model is to implement the course of action. It is reasonable to expect that Callie, Paul, and the school principal will find an acceptable and ethically sound solution to this dilemma. We will continue to provide support to Callie and Paul throughout implementation as they uphold their ethical obligations to the counseling profession.

### **Conclusion**

In this case, Callie and Paul were faced with a number of ethical dilemmas. Our team utilized the ACA Ethical Decision Making Model in order to effectively conceptualize their situation. Using this process, we outlined the ethical dilemmas and considered multiple professional ethical standards to guide our recommendations. This process demonstrates the multiple layers of complexity associated with ethical dilemmas, with a myriad of possible decision paths. Throughout this process, our team strived to uphold professional ethics by maintaining the best interests of Callie's clients and justifying potential actions based upon best practices. As vested stakeholders in the counseling profession, it is our desire that consistent and disciplined analysis of ethical dilemmas continue to guide our practice.

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## **Appendix**

### **Case Scenario for Doctoral Level Students ACA 2009 Graduate Student Ethics Competition**

Paul is a Licensed Professional Counselor (LPC) in private practice who provides supervision to counselors working toward licensure. Callie meets with him every other week for clinical supervision as she is working toward licensure as an LPC. She has worked for many years as an elementary school counselor, although she is now completing the requirements for state licensure as a Licensed Professional Counselor (LPC).

Recently, the relatively new principal of the school where she works asked her to present him with a weekly list of every student or parent she counsels and every doctor, agency, therapist, and etc. that she consults with regarding a student, stating that he needs this data for his quarterly report on school resources and activities. She comes to Paul seeking guidance regarding her ethical responsibility concerning confidentiality. On one hand, it seems to her that even disclosing that she has seen an individual or parent in her professional capacity may be a breach of confidentiality. This is particularly true in this case, where the principal has been known for sharing information told to him in confidence by others. Callie tells Paul that the principal's secretary is also privy to information which is designated only for the principal to see and that Callie has witnessed her sharing confidential information about students with various instructors; hence, she is concerned the same may happen with this "list."

Additionally, the principal is the school counselor's employer, and she doesn't want to appear to be insubordinate. Callie seeks guidance on how to proceed in order to avoid jeopardizing her professional ethical standards and, potentially, her job, as she is a single parent supporting her elderly parents and one child.