

The School Counselor and Confidentiality

(Adopted 1974; reviewed and reaffirmed 1980; revised 1986, 1993, 1999, 2002, 2008, 2014, 2018, 2024)

American School Counselor Association (ASCA) Position

School counselors recognize their primary obligation regarding confidentiality is to the student and balance that obligation with an understanding of legal rights of families or guardians to be the guiding voice in their children’s lives.

The Rationale

Students have a right to be treated with dignity and respect and a right to privacy that is honored to the greatest extent possible (ASCA, 2022). The school counselor is responsible for fully respecting a student’s right to privacy and for providing an atmosphere of trust and confidence (Remley, et al., 2017; ASCA, 2022).

Confidentiality is the ethical term ascribed to the information communicated within the counseling relationship. The school counselor has an ethical obligation to keep information obtained within the counseling relationship confidential unless legal requirements or school board policy demand confidential information be revealed or a breach is required to prevent serious and foreseeable harm to the student or others.

Serious and foreseeable harm is different for each minor in schools and is determined by multiple factors including a student’s developmental and chronological age, the setting, parental/guardian rights and the nature of the harm. School counselors consult with appropriate professionals when in doubt as to the validity of an exception to confidentiality (ASCA, 2022).

Exceptions to confidentiality exist. School counselors should inform students when situations arise in which school counselors have a responsibility to disclose information obtained in counseling for the protection of students, themselves or other individuals. When faced with a potential need to breach confidentiality, school counselors should use an ethical decision-making model to determine potential courses of action and their consequences before proceeding (ASCA, 2022).

Privileged communication between a school counselor and a student is a legal term granting protection to information shared in a counseling relationship only if said privilege is granted by federal or state statute. If privilege applies, it can

43 provide additional safeguards to confidential information. It is essential for school
44 counselors to stay informed about evolving state laws concerning parent/guardian
45 rights and student confidentiality to effectively navigate and uphold legal and
46 ethical standards in their practice.

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48 **The School Counselor's Role**

49 The role of the school counselor regarding confidentiality is to:

- 50 • Support the students' right to privacy and protect confidential information
51 received from students, families, guardians and staff members
- 52 • Explain the meaning and limits of confidentiality to students in developmentally
53 appropriate terms
- 54 • Provide appropriate disclosure and informed consent regarding counseling and
55 confidentiality
- 56 • Seek consultation with other school-based mental health professionals and/or
57 administrators when determining if and when to breach student confidentiality
58 (Stone, 2022)
- 59 • Ensure school faculty and administration are aware of the parameters of school
60 counselor confidentiality (Trice-Black, et al., 2018)
- 61 • Inform students and families of the limits to confidentiality when:
 - 62 ○ the student poses a danger to self or others
 - 63 ○ the student is being harmed by someone else
 - 64 ○ there is a court-ordered disclosure
 - 65 ○ the school counselor consults with other professionals, such as
66 colleagues, supervisors, treatment teams and other support personnel,
67 in support of the student
 - 68 ○ privileged communication is not granted by state laws and local guidelines
69 (e.g., school board policies)
 - 70 ○ the student participates in group counseling
 - 71 ○ substance use and treatment are concerns (CFR 42, Part 2; 2017)
- 72 • Keep personal notes separate from educational records and not disclose
73 their contents except when privacy exceptions exist
- 74 • Seek guidance from supervisors and appropriate legal advice when their records
75 are subpoenaed
- 76 • Communicate highly sensitive student information via face-to-face contact
77 or phone call and not by e-mail or insertion into the educational record
- 78 • Request to a court of law that a student's anonymity be used if records are
79 subpoenaed
- 80 • Be aware of federal, state and local security standards related to electronic
81 communication, software programs and stored data
- 82 • Advocate for security-level protocols within student information systems
83 allowing only certain staff members access to confidential information
- 84 • Assert their belief that information shared by students is confidential and
85 should not be revealed without the student's consent
- 86 • Adhere to all school board policy and federal and state laws regarding
87 confidentiality and protecting student records, health information and
88 special services (i.e., HIPAA, FERPA, IDEA)

- Exercise caution and sensitivity when legally or ethically bound to breach confidentiality in an effort to advocate for the student’s well-being and preserve the student/school counselor relationship
- Inform the student prior to the disclosure if possible
- Collaborate with students to honor their autonomy and input as to how the disclosure occurs as much as developmentally appropriate

Summary

The relationship between students and their school counselor requires an atmosphere of trust and confidence. However, students should be informed that exceptions to confidentiality exist in which school counselors must inform others of information they obtained in the counseling relationship. Breaches to confidentiality are necessary to prevent serious and foreseeable harm to students or others and to adhere to legal requirements, including state and local laws as well as school district policies. School counselors work to advocate for policies and practices that prioritize and protect student confidentiality, ensuring a safe and trusting environment for all students.

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Resources

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Online Resources

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