The School Counselor and Confidentiality

American School Counselor Association (ASCA) Position
School counselors recognize their primary obligation for confidentiality is to the student but balance that obligation with an understanding of the legal and inherent rights of parents/guardians to be the guiding voice in their children’s lives (ASCA, 2016).

The Rationale
School counselors affirm their belief in the student’s worth and dignity (ASCA, 2016, A.1.a). It is the school counselors’ responsibility to fully respect the right to privacy of those with whom they enter a counseling relationship and to provide an atmosphere of trust and confidence (Lazovsky, 2008) unless keeping that information confidential leads to foreseeable harm to the student. Foreseeable and serious harm is different for each minor in the school setting and is determined by students’ developmental and chronological age, the setting, parental rights and the nature of harm (ASCA, 2016, A.2.e). Confidentiality is an ethical and legal term focused on information communicated within the counseling relationship. A school counselor who is in a counseling relationship with a student has an ethical and legal obligation to keep information contained within that relationship.

Exceptions to confidentiality exist, and students should be informed that situations arise in which school counselors must inform others of information obtained in counseling relationships to protect students themselves or others. Privileged communication between a school counselor and a student is a legal term granting privilege to a counseling relationship only if said privilege is granted by federal or state statute. If privilege applies it can provide additional safeguards to confidential information.

The School Counselor’s Role
The role of the school counselor regarding confidentiality is to:
• Support students’ right to privacy and protect confidential information received from students, parents/guardians and staff members
• Explain the meaning and limits of confidentiality to students in developmentally appropriate terms
• Provide appropriate disclosure and informed consent regarding the counseling relationship and confidentiality
• Inform students and the family of the limits to confidentiality when:
  o the student poses a danger to self or others
  o there is a court-ordered disclosure
  o in consultation with other professionals in support of the student, e.g. colleagues, supervisors, treatment teams and other support personnel
  o when privileged communication is not granted by state laws and local guidelines (e.g. school board policies)
• Keep personal notes separate from educational records and not disclose their contents except when privacy exceptions exist
Seek guidance from supervisors and appropriate legal advice when their records are subpoenaed.

Communicate highly sensitive student information via face-to-face contact or phone call and not by e-mail or inserting into the educational record.

Request to a court of law that a student’s anonymity be used if records are subpoenaed.

Be aware of federal, state and local security standards as they relate to electronic communication, software programs and stored data.

Advocate for security-level protocols within student information systems that allow only certain staff members access to confidential information.

Assert their belief that information shared by students is confidential and should not be revealed without the student’s consent.

Adhere to all school board policy and federal and state laws protecting student records, health information and special services (e.g., HIPAA, FERPA, IDEA).

Summary

The counseling relationship between students and their school counselor requires an atmosphere of trust and confidence. To be able to enter into a meaningful, honest dialogue with the school counselor, students must first trust the school counselor. However, school counselors should inform students that exceptions to confidentiality exist in which school counselors must inform others of information obtained in the counseling relationship to prevent serious and foreseeable harm to students themselves or others and if it is legally required.

References


Additional Reading


**Online Resources**

