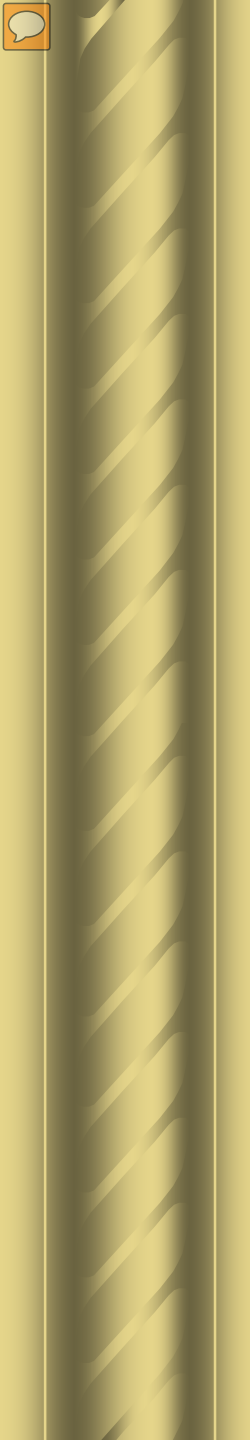




Ethical Issues in Working With Children and Families

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Psychological work with families differs significantly from work with individuals in many respects that have important ethical implications.

Families often include...

- **People with non-congruent, competing, or conflicting interests.**
- **People who wish to keep secrets from each other.**
- **People who do not wish to be totally candid with each other.**
- **People with differing levels of decisional capacity and dependence.**

Example: people who do not wish to be totally candid with each other.

- **Do I look fat in this?**
- **Aren't my parent's wonderful?**
- **I'm right, aren't I?**



How Are Child Clients Different from Adults?

- **Legal Status**

- Minors and emancipated minors
 - Example: Dominique Moceanu

- **Socialization Influences**

- The case of Ricky Ricardo Green

- **Time Perspective**

- **Concept Manipulation Abilities**

- Piagetian frameworks

Essential Components of Informed Decision Making

- **Information**
 - Access
- **Understanding**
 - Comprehension
- **Competency**
- **Voluntariness**
- **Decision-Making Ability**
 - Reasoning capacity

What Are You Asking For When You Say, “Is That Okay With You?”

- **Consent**

- Competent, knowing, voluntary

- **Assent**

- Veto power
- Therapeutic versus non-therapeutic context

- **Permission**

- Proxy consent
- Substituted judgment



Important Case Law on Decision Making and Children

- ***Prince v. Massachusetts*, 321 U.S. 158 (1944)**
 - Parents may not make martyrs of their children
- ***Parham v. J.R.*, 442 U.S. 584 (1979)**
- ***Fare v. Michael C.*, 442 U.S. 707 (1979)**

Sharing Information About Children's Psychotherapy With Their Parents

- **Basic concept:** therapy has to be safe for all participants and parents need to know information about their children that allows them to fulfill parental responsibilities.

Sharing Information About Children's Psychotherapy With Their Parents

- Children should have **consensual confidentiality rights**.
- Parents should have **regular progress reports**.
- Therapists may breach a child's confidentiality non-consensually to **prevent serious harm**, disclosing **only information necessary** for parents to protect.
 - Clarify meaning of serious harm to avoid confusion.



How Do the 2002 APA Standards Guide Us?

- **Focus on**

- **Competence**
- **Confidentiality**
- **Informed consent**
- **Role clarity**
- **Vigilance, monitoring, and active management as change occurs or new issues arise**



APA 2002 Code Standards on Competence

- **Psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience.**

APA 2002 Code Standards on Competence

- **Where scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status is essential for effective implementation of their services or research, psychologists have or obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals...**



APA 2002 Code Standards on Competence

- **Psychologists planning to provide services, teach, or conduct research involving populations, areas, techniques, or technologies new to them undertake relevant education, training, supervised experience, consultation, or study.**

APA 2002 Code Standards on Competence

- **When psychologists are asked to provide services to individuals for whom appropriate mental health services are not available and for which psychologists have not obtained the competence necessary, psychologists with closely related prior training or experience may provide such services in order to ensure that services are not denied if they make a reasonable effort to obtain the competence required by using relevant research, training, consultation, or study.**

APA 2002 Code Standards on Competence

- **In those emerging areas in which generally recognized standards for preparatory training do not yet exist, psychologists nevertheless take reasonable steps to ensure the competence of their work and to protect clients/patients, students, supervisees, research participants, organizational clients, and others from harm.**



APA 2002 Code Standards on Competence

- **When assuming forensic roles, psychologists are or become reasonably familiar with the judicial or administrative rules governing their roles.**



Lack of Experience in Emergencies

In emergencies, when psychologists provide services to individuals for whom other mental health services are not available and for which psychologists have not obtained the necessary training, psychologists may provide such services in order to ensure that services are not denied. The services are discontinued as soon as the emergency has ended or appropriate services are available.

APA's Fundamental Statement on Confidentiality

Psychologists have a primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium, recognizing that the extent and limits of confidentiality may be regulated by law or established by institutional rules or professional or scientific relationship.

Limits on Confidentiality per 2002 APA Ethics Code

- **Psychologists discuss with persons (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal representatives) and organizations with whom they establish a scientific or professional relationship**

(1) the relevant limits of confidentiality and

(2) the foreseeable uses of the information generated through their psychological activities.



Limits on Confidentiality per 2002 APA Ethics Code

- **Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.**




Mandated Abuse or Neglect Reporting

If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to the Ethics Code and take steps to resolve the conflict. If the conflict is unresolvable via such means, psychologists may adhere to the requirements of the law, regulations, or other governing legal authority.

Discussion Topics

- Providing the same basic information as given to individual clients.
- Confidentiality limits.
- Access to records.
- Normal conflicts of interests in multiple-client therapies.
- Children's rights and limitations in these situations.



What Principles Apply to Informed Consent to Treatment?

- **Inform clients as early as feasible in the therapeutic relationship about the nature and anticipated course of therapy, fees, involvement of third parties, and limits of confidentiality.**
- **Provide sufficient opportunity for the client to ask questions and receive answers.**

APA 2002 Code Comments on Informed Consent

- **When psychologists conduct research or provide assessment, therapy, counseling, or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code.**

APA 2002 Code Comments on Informed Consent

- **For persons who are legally incapable of giving informed consent, psychologists nevertheless**
 - (1) provide an appropriate explanation**
 - (2) seek the individual's assent**
 - (3) consider such persons' preferences and best interests**
 - (4) obtain appropriate permission from a legally authorized person, if such substitute consent is permitted or required by law. When consent by a legally authorized person is not permitted or required by law, psychologists take reasonable steps to protect the individual's rights and welfare.**



APA 2002 Code Comments on Informed Consent

- **When psychological services are court-ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court-ordered or mandated and any limits of confidentiality, before proceeding.**
- **Psychologists appropriately document written or oral consent, permission, and assent.**

How About Informed Consent Other Than Treatment?

- **Psychologists may dispense with informed consent only:**
 - (1) **where research would not reasonably be assumed to create distress or harm and involves:**
 - (a) **the study of normal educational practices, curricula, or classroom management methods conducted in educational settings;**
 - (b) **only anonymous questionnaires, naturalistic observations, or archival research for which disclosure of responses would not place participants at risk of criminal or civil liability or damage their financial standing, employability, or reputation, and confidentiality is protected.**

Working With Families and Children

Informed-Consent Discussion Topics

- Basic information given individual clients
- Confidentiality limits
- Access to records
- Normal conflicts of interests in multiple-client therapies
- Children's rights and limitations on these
- Rules for disclosure of information across family
- Reminder that no one can predict the course of or changes in human relationships
- HIPAA rules

Who Can Consent to Treatment for a Minor Child?



- **The child:**
 - Confirm applicability of state laws.
- **The parents:**
 - Joint custody means either parent may consent unless court decrees state otherwise.
 - With joint custody either parent can demand an end to therapy of minor child.
 - Resisting parental demand could result in disciplinary action.

Who Can Consent to Treatment of Minor Child?



- **When legal/physical custody is divided:**
 - **Seek consent from both parents prior to evaluating or treating.**
 - **Request copy of divorce decree or letter from parent's attorney attesting to his or her authority.**

Who Can Consent to Treatment of Minor Child?

- **When a parent is unavailable or when parental contact might reasonably be expected to harm the child:**
 - **Seek consultation.**
 - **Note pros and cons of non-contact in your records.**

Parental Disputes Regarding Child's Treatment

Consent to your services does not equal acceptance of payment responsibility.

- Clarify this in advance, preferably in writing, with the party accepting responsibility.**

Who Is the Client When a Child Enters Therapy?

Does a psychotherapist-client relationship exist when a parent participates in services only (or chiefly) to aid the child?

- If parent is not considered a client, he or she should be specifically informed before professional activities begin.
- Information provided in such contexts is confidential, but may not be privileged.
- Document the parent's "client" status in writing.

Who is the client when a child enters therapy?

Usual best option: designate parents as clients for limited purposes in your records and inform them.



Therapy Involving Couples or Families

- **When psychologists agree to provide services to several persons who have a relationship (such as spouses, significant others, or parents and children), they take reasonable steps to clarify at the outset**
 - (1) which of the individuals are clients/patients.**
 - (2) the relationship the psychologist will have with each person. This clarification includes the psychologist's role and the probable uses of the services provided or the information obtained.**



Therapy Involving Couples or Families

- **If it becomes apparent that psychologists may be called on to perform potentially conflicting roles (such as family therapist and then witness for one party in divorce proceedings), psychologists take reasonable steps to clarify and modify, or withdraw from, roles appropriately.**

Remember to Discuss...

- Rules for disclosure of information across the family.
- That no one can predict the course of or changes in human relationships.



Isn't it Obvious?

Psychologists do not engage in sexual intimacies with individuals they know to be close relatives, guardians, or significant others of current clients/patients. Psychologists do not terminate therapy to circumvent this standard.

Multiple Relationships in the 2002 Code

- **A multiple relationship occurs when a psychologist is in a professional role with a person and**
 - (1) at the same time is in another role with the same person,**
 - (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or**
 - (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.**



Multiple Relationships in the 2002 Code

- **A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.**
- **Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.**

Multiple Relationships in the 2002 Code

- **If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Ethics Code.**
- **When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur.**



Who's in the Record?

Psychologists create, and to the extent the records are under their control, maintain, disseminate, store, retain, and dispose of records and data relating to their professional and scientific work...

- (1) facilitate provision of services later by them or other professionals,**
- (2) allow for replication of research,**
- (3) meet institutional requirements,**
- (4) ensure accuracy of billing and payments, and**
- (5) ensure compliance with law.**

Involvement of Third Parties

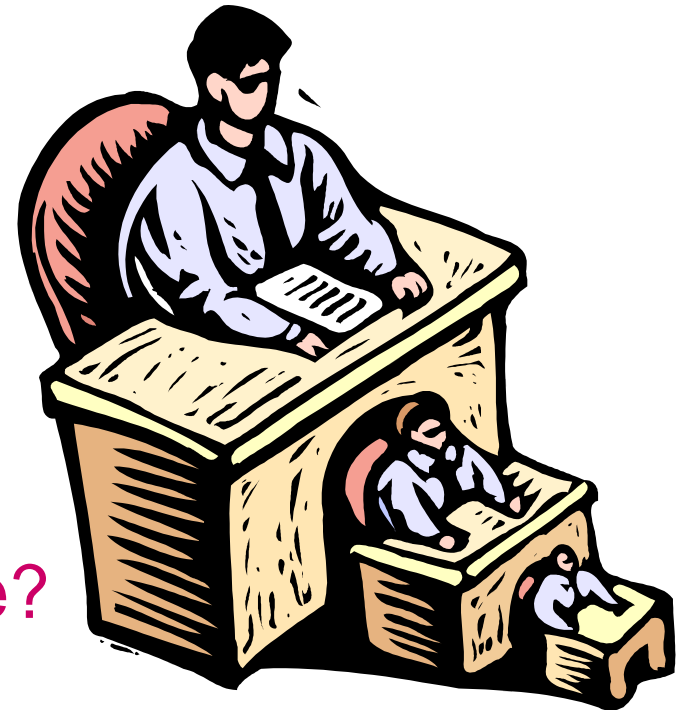
- **When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist (e.g., therapist, consultant, diagnostician, or expert witness), an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality.**

Psychologists, Kids, and Schools

Special Ethical Concerns

- Who is the client?
The school board?
The principal?
The parents?
The child?

Who is most vulnerable?



Psychologists, Kids, and Schools

Special Ethical Concerns

- **Organizational demands versus child client needs:**
 - **Incongruent interests**
 - **Autonomy in the context of organizational structure**
 - **Service needs and limited budgets**
 - *Forrest v. Ansbach*

Psychologists, Kids, and Schools:

Special Ethical Concerns within the School

- **Legitimacy of token economies, rewards, and aversive controls**
- **Use of “time out”**
- **Preventive exclusion**
- **Post hoc support for administrative decisions**
- **Pygmalion effects**



Psychologists, Kids, and Schools

Special Ethical Concerns

- **Privacy and confidentiality**
 - What goes into school records
 - Who has access
 - “Need to know: paradigm
- **Psychologist as “whistle-blower” and mandated reporter in absence of administration action**



Psychologists, Kids, and Schools

Special Ethical Concerns

- **School-based research**

- *Merriken v. Cressman*: “prediction of drug and alcohol abuse” in Norristown, PA, schools opposed by parent and ACLU
- “Opt-out **Consent**”
 - *Delancy et al. v. Gateway School District*
- Prediction of school-based violence



Psychologists, Kids, and Schools

Concerns Extending Home

- **Substance abuse**
- **Domestic violence**
- **Academic dishonesty**
- **Disciplinary actions:**
 - **Detention**
 - **Suspension**
 - **Expulsion**
- **Attendance**
- **Harassment and bullying (school violence)**
- **Social needs**
- **IEP appeals**