
Confidentiality and Informed Consent: School Counsellors' Perceptions of Ethical Practices

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ABSTRACT

This article presents the findings of in-depth interviews with school counsellors in Nova Scotia on issues related to confidentiality and informed consent. Of the 224 school counsellors in the province, 43 counsellors, representing all school boards, agreed to a 45-minute semi-structured telephone interview focusing on their current practices and their views on optimal practices related to confidentiality and informed consent. Analysis of interviews identified five categories of issues and concerns related to confidentiality and informed consent: informing students on issues of confidentiality, age of consent, issues of professional confidentiality, sharing client information with others, and confidentiality with teachers and principals.

RÉSUMÉ

Cet article présente les conclusions d'entrevues en profondeur avec des conseillers scolaires en Nouvelle-Écosse sur des questions de la confidentialité et le consentement éclairé. Des 224 conseillers dans les écoles provinciales, 43 conseillers représentant toutes les commissions scolaires ont consenti à une entrevue téléphonique semi structurée d'une durée de 45 minutes portant sur leurs pratiques courantes et leurs points de vue sur les pratiques optimaux se rapportant à la confidentialité et au consentement éclairé. Une analyse des entrevues a identifié cinq catégories de questions et de soucis liés à la confidentialité et le consentement éclairé: informant les étudiants sur les questions de confidentialité, l'âge de consentement, la confidentialité professionnelle, le partage de renseignements sur le client avec d'autres personnes, et la confidentialité avec les professeurs et les directeurs.

The ethical principle of confidentiality is at the core of all professional counselling, and its maintenance can be critical to the success of most counselling relationships. However, the protection of confidentiality is not an absolute guarantee since exceptions are mandated both in ethical codes and in law (American Counseling Association [ACA] Code of Ethics, 2005; Canadian Counselling Association [CCA] Code of Ethics, 2006). For example, the CCA Code of Ethics identifies the following exceptions:

1. When disclosure is required to prevent clear and imminent danger to the client or others.
2. When legal requirements demand that confidential material be revealed.
3. When a child is in need of protection.

It can be challenging for all counsellors to exercise the critical judgements required to navigate this ethical territory of obligation with its significant exceptions. This is particularly so for counsellors who work in public schools.

School counsellors make ethical decisions in an environment in which there is sometimes a conflict between the statutory law of age of majority and the common law concept of mature minor, an imprecise correlation between developmental status and the capacity to exercise informed consent, an obligation to respect the rights of parents and guardians and to act in loco parentis, and a lack of clarity about the application of the Canadian Charter of Rights and Freedoms to the privacy rights of school-age children. Hesson, Bakal, and Dobson (1993) refer to these same conflicts for health practitioners who work with children and adolescents:

When faced with the issues of a minor's right to consent to treatments, ethical imperatives often conflict. Health practitioners may be torn between their concern for respecting the autonomy and dignity of their prospective child client, and the wishes and rights of his or her parents, who may under provincial legislation, have the right to refuse consent. (p. 523)

Informed consent—the right to freely agree to counselling, to understand what is involved in the process, and to comprehend the possible and probable consequences of involvement—weaves intricately and dynamically with issues of confidentiality. All provinces in Canada have age of majority legislation that has implications for informed consent by school-age children. This age varies from 18 to 19. Students below this age are considered minors and can be seen as not able to exercise consent to counselling or to grant access to their school records without the approval of parents or guardians (Hesson et al., 1993; Landau, 1986; Osborne, 1989; Rozovsky & Rozovsky, 1990).

Despite this statutory law, there also exists the common law concept of mature minor. Noel, Browne, Hoegg, and Boone (2002) summarize it this way:

There is a sufficient body of common law in Canada which is fairly clear in stating that regardless of age, a minor is capable of consenting or refusing consent to medical treatment if he or she is able to appreciate the nature and purpose of the treatment and the consequences of giving or refusing consent. (p. 139)

They further state, using examples from case law, that

Should a minor have the capacity to understand the nature of the information contained in the health care record and the consequences of its release, then the minor's consent is both necessary and sufficient. Moreover, the parents' consent is neither required nor can it override the minor's decision. In assessing a minor's capacity, the understanding should be one where the patient can manifest an ability to repeat, in his or her own words, basic information contained within the record. (p. 140)

Despite this application of the concept of mature minor to health decisions by persons under the age of majority, there appears to be a reluctance to apply this common law principle to the rights of minors within the educational environment. Clements and Uhlemann (1991) point out the difficulty of following the legally correct approach of the mature minor rule. They believe that it might be practically difficult to apply because of pressure from parents and employers: "school counsellors may not be able to counsel students without parental consent or may

not be able to maintain client confidentiality because school board policies permit disclosures to parents” (p. 210).

However, the Canadian Counselling Association (2001) includes the principle underlying the concept of the mature minor in its ethical standards for counsellors who work with children. It states:

The parents and guardians of younger children have the legal authority to give consent on their behalf. However, the parental right to give consent diminishes and may even terminate as the child grows older and acquires sufficient understanding and intelligence to fully comprehend the conditions for informed consent. Counsellors should be vigilant to keep themselves informed of their statutory obligations with respect to the rights of children, including their right to privacy and self-determination commensurate with their ability to do so and with regard to their best interests. (p. 11)

An Alberta Court of Appeal in the case of *JSC and CHC v. Wren* (1986) set a benchmark whereby a minor would likely not be considered a mature minor before the age of 15 or 16. Tim Bond (1993), a leading British ethicist in the field of counselling, cites the Gillick case as setting legal precedent in the United Kingdom, which established a common law position that as long as a young person under 16 years of age understands the nature of the issues and consequences involved, he or she is deemed competent and therefore has a legal right to make an autonomous decision. This view is consistent with research on children’s problem-solving abilities, which found that around age 12 most minors had attained the formal operations stage of cognitive development that prevails in the population at large, and therefore the lack of intellectual capacity was not a valid argument for denying minors over 12, as a group, the right of independent consent to treatment (Grisso & Vierling, 1978). This conclusion is independently supported by the findings of experimental studies by Keith-Spiegel and Maas (1981), and by Weithorn and Campbell (1982). Another study of the view of psychologists in New Zealand reveal that 42% of the participating psychologists would support the right of a 12-year-old to privacy over the right of his or her parents to have access to information shared in the therapeutic context (Leathley, 1990).

In public schools, counsellors sometimes address requests from parents or guardians to have access to their child’s counselling records. Such requests must be considered within the context of what is in the best interest of the child and protection of the child’s privacy rights. In 2000, such a request from a mother of two elementary-age children was denied by the school counsellor, and the decision was subsequently upheld by the British Columbia privacy commission (Sheppard, 2004). Amongst other guidelines provided by the commission in this instance is “A parent’s ‘right to know’ must be balanced against the reasonable expectations of the benefits and risks when there is request to invade their children’s privacy” (p. 11).

According to Hesson et al. (1993), Canadian courts are now addressing the application of the Canadian Charter of Rights and Freedoms to the privacy rights of children. Section 15 of the Charter is intended to ensure an individual’s right to privacy protection, and equal benefit to protection against discrimination based on age, as well as on other attributes such as ethnic origin and religion. They conclude

that “[c]onsistent with American jurisprudence, Canadian courts recognize that children have certain constitutionally protected interests that may be asserted against the state and may, in some cases, override the rights of their parents” (p. 318).

Clearly, school counsellors work in an environment where the rights of parents to know is often in conflict with their child’s right to privacy, which includes the right to have a confidential relationship with their counsellor. Despite the complexity of evolving ethical decisions within these circumstances, very few studies have examined concerns of school counsellors and their experiences with the many ethical dilemmas that can arise in their professional work.

In our research we used a practical qualitative approach to obtain first-hand accounts of how school counsellors address issues of confidentiality and informed consent in a school context. The authors’ experiences in conducting workshops, attending monthly meetings of school counsellors, attending provincial conferences, talking to individual school counsellors, previous research with counsellors in Nova Scotia schools, and personal knowledge of the lack of clear policies guiding school counsellors on the above issues provided the incentive to investigate questions posed in the current research.

METHOD

The Research Project

In 2001, the Canadian Counselling Association published standards of professional practice for counsellors. Though not prescriptive, the *Standards of Practice* for counsellors outlines best practices for counsellors to follow. The purpose of our research was twofold: It explored counsellors’ perceptions of their current ethical counselling practices, and it focused on counsellors’ beliefs regarding the optimum state for ethical practice in schools: the way they believed their practice should be.

The study we conducted was qualitatively descriptive in nature (Bogdan & Biklen, 2003). We conducted province-wide interviews of counsellors in Nova Scotia schools on issues related to confidentiality and informed consent. The investigation into these important issues was based upon pragmatism (Patton, 2002), and focused on how counsellors perceive ethical issues in their professional practice. Patton confirms the legitimacy of pragmatism by stating, “The methods of qualitative inquiry now stand on their own as reasonable ways to find out what is happening in programs and other settings” (p. 37). He believes that in real-world practice, which in this study is the school setting, “methods can be separated from the epistemology out of which they emerged ... (that) one need not even be concerned about theory” (p. 36). Based upon this pragmatic approach to research, several open-ended questions were posed to counsellors to more fully understand how their practice was informed by ethical considerations:

1. How do you inform students about the confidentiality of their sessions with you?
2. What processes do you go through to share information with other professionals and parents?

3. At what age do you feel confident that a student can give informed consent? Explain.
4. What difficulties and challenges do you face with respect to the issue of confidentiality in your school?
5. How do you deal with the issue of confidentiality when you are asked for information about a student from significant others?
6. What is your perceived ideal of confidentiality in schools?
7. What steps do you believe need to be taken to achieve an ideal state of confidentiality in school settings?

Participants

Counsellors were selected from the listing of school counsellors in the *Directory of Guidance Counsellors in Nova Scotia Schools*, and represented all seven school boards in the province. All school counsellors listed were invited to participate in the research. In total, 43 counsellors from 224 invitations agreed to participate, and were eventually interviewed by telephone (Table 1). The majority of participants were fully employed as school counsellors.

Table1
Profile of Participants

Gender		School level		Percentage of time in counselling role		
Male	Female	Middle/high school	Elementary school	100	50–90	<50
13	30	80%	20%	72%	20%	7%

Counsellors worked primarily in middle schools and high schools, with the remaining situated in primary and elementary schools. Participants were well experienced and well qualified, both as teachers in the public school system and in their current role as counsellors. Eighty-four percent of those responding held a master’s degree in counselling while 5% were near completion of their master’s in counselling. Of the remaining participants, 7% held a bachelor’s degree with a certificate in counselling completed or near completion, while the remaining 7% held a bachelor’s degree with no counselling training. With respect to experience, approximately 50% of participants had been counselling in the school system for 9 years or less, with the remaining 50% having spent from 10 years to 30 years counselling in schools.

Procedure and Analysis

The telephone interviews, 45 minutes in length, were guided by a semi-structured questionnaire that contained open-ended questions pertaining to issues of confidentiality and informed consent. Miller (1995) and Surges (2004) provide a convincing argument that telephone interviews are comparable to face-to-face interviews in qualitative research. Surges also suggests that telephone interviews “may enable researchers to obtain data from people who would not otherwise come

into the body of collaborators in research and who therefore would not have their views represented” (p. 37).

The authors used a direct-to-text methodology (Jeffery, Haché, & Lehr, 1995) allowing the interviewer who was proficient in typing to transcribe the participants' interviews during the interview process. The results section is organized using questions posed in the interviews with counsellors. Patton (2002) suggests that responses to interviews can be organized question by question as a useful way of reporting on qualitative data.

Each researcher read the content of all interviews several times, highlighting significant information related to the questions under investigation. For example, when counsellors were asked, “What procedures do you follow to share information with other professionals and parents?” each researcher examined the data collected and categorized those elements that identified such procedures in the counsellor's responses. This was done with each question in the interview. Accordingly, we highlighted common areas of counselling practice, and tried to capture the multiplicity of opinion and experiences expressed by all of the participants. This approach is consistent with Patton's (2002) belief that a pragmatic approach attempts to capture the multiplicity of participant responses.

RESULTS

Counsellors provided a rich description of their practices, allowing for the identification of issues and concerns that were common to their practice. These were categorized as (a) informing students on issues of confidentiality; (b) sharing client information with parents, teachers, and others; (c) at what age can a student give informed consent; (d) issues of professional confidentiality; and (e) confidentiality with teachers and principals. Where only one participant gave a perspective that was not given by others, we indicated this by saying “one counsellor.” In all other cases, we used individual quotations to indicate common points of view.

Informing Students on Issues of Confidentiality

Information gathered on confidentiality reflected a diversity of counselling practices. In describing when and how they told students about confidentiality, counsellors across the province revealed common and informed practices and provided us with protocols, which we believe reflected the uniqueness of various counsellors and their professional responses to the school settings in which they find themselves. Despite some variation from counsellor to counsellor, all those interviewed said they informed students about confidentiality and its limitations prior to counselling sessions (in class visits, in assemblies, or during the student's first visit). A typical example was expressed by this counsellor:

I usually go to classes at the beginning of each year to explain our role as counsellors and to explain confidentiality. I tell them that the exceptions of confidentiality are harm to themselves or others, or illegal activities. When a kid comes in to deal with a personal issue, I will reiterate the parameters of confidentiality. I'm always concerned that, before I get to remind them, they will blurt out something like sexual abuse or abortion, before I get to remind them about the limits of confidentiality.

There was shared agreement among counsellors on what they believed were limits to confidentiality. Harm to self or others and child abuse were touted as the two main reasons for breaching confidentiality. Only one counsellor believed that confidentiality could be compromised by a court order or subpoena. Because of the school context, counsellors talked about “should the need arise to talk to your teacher,” and they would obtain direction from the student as to what and how much they might share:

I suggest to students that sometimes it’s helpful for the teacher to know something because it will benefit the student. If they agree, then I send a confidential memo, stating globally that the student is dealing with some personal issues, without giving any specifics. Most teachers are pretty good; however, there are always a few teachers who feel they deserve to know more.

Sharing Client Information with Parents, Teachers, and Others

There were similarities among counsellors with respect to this issue as well as inconsistencies and idiosyncratic practices. Counsellors left an overall impression of concern related to sharing information without a student’s consent, but no clear coherent process emerged by which they shared information: “Depends upon the situation” or “It depends upon who makes the referral.” Overall, counsellors reported concerns about maintaining confidentiality and reported practices that appeared to vary considerably across counsellors. The following paragraphs summarize some of the issues related to how counsellors said they shared confidential information.

The issue of the age of the child was raised as a concern. For example, elementary and middle school counsellors expressed more concern than secondary counsellors about obtaining permission from parents so that a student might receive counselling. Counsellors believed that if the child was 12 years old (some said 14), they needed parental consent for counselling. In our research, counsellors said they told parents that information received from their client was confidential, but they also said they would inform these same parents about how their child was doing generally. Elementary counsellors were more apt, therefore, to declare that they acted in a manner they deemed to be in “the best interests of the child.” As child advocates, they said they might talk more readily to the principal and to other teachers or parents if they felt it might be helpful for the child. The following view was typical:

If the session is not about harm, but is something that parents can help with, I’ll suggest that to the student. If they agree, I’ll contact the parent and speak with them over the phone or set up an interview time. Referrals are a big part of my job, and if I have to make a referral, I’ll send home forms to get signed consent from the parents. If it’s something that a teacher, resource, principal, or VP needs to know, I will sometimes chat with them. I decide what is in the child’s best interest to share. I feel I have flexibility with this age group that I wouldn’t have with an adult population.

Counsellors also distinguished between “personal” information and “academic” information and reported that only issues arising out of a personal counselling session were considered confidential. In these “personal” situations, regardless of consent, counsellors distinguished between information that was confidential or “secret” and information that could be shared so others might be supportive of the student.

Counsellors commented on a variety of practices they used to obtain consent, given what they believed was a paucity of available forms for this purpose:

If there is something I want to discuss with the other counsellor, I will obtain the student's consent, and the same thing applies to contacting the parent. If they don't want me to make contact, I won't, except in the cases of self-harm or safety issues. I have no signed form ... a signed form might be a good idea. If I go outside the school then there are signed forms.

A common perspective indicated that counsellors contented themselves with verbal consent (usually from the child) rather than obtain written consent when they felt a need to talk to teachers, principals, and other counsellors. With outside professionals, there was a general tendency to obtain written consent from the parent and to inform students.

At What Age Can a Student Give Informed Consent?

Counsellors revealed both common practices and considerable inconsistencies in standards regarding the age at which they believed a student could give consent. For example, many of the counsellors interviewed indicated they were comfortable in setting the age for giving consent at 16 years. Others suggested, "In high school they should all be able to give informed consent." A minority of counsellors put the age of consent at 17, 18, or 19 years of age, citing the legal definition of a child as their comfort zone. One counsellor represented the diversity of opinion by stating

I have to go with legalities, and that depends on the situation. Lawyers say 16, until which age child protection agencies would be involved. Parents are responsible for their child up to the age of 19. What's practiced isn't necessarily what the law requires. Transporting a child without parental consent may be against the rules, but it may be in the child's best interest.

In this example, the counsellor distinguished between obtaining informed consent to provide counselling services and aiding a client to perform an action (e.g., transporting them). The counsellor might deem these actions to be in the client's best interest, but cannot take any action because they believe the client is legally considered a child who cannot give consent.

A range of opinion was obtained regarding age to consent to counselling. One counsellor summed it up: "At age 14 they are mature enough to give consent." Quite often, counsellors stipulated that obtaining consent at this age or any age below 19 "depends on the situation." For example, some counsellors were adamant about contacting parents and other agencies around issues of harm, abuse, and "unless I was dealing with someone who has cognitive difficulties." In these situations they obtained consent from parents or guardians. In some cases they encouraged students to involve parents: "I like to keep an open line of communication with the parents."

Counsellors who placed the age of consent somewhere between 14 and 16 or older often expressed uncertainty and tentativeness: "That's a tough question. It should be done on an individual basis, though by high school most students are capable of giving informed consent." A couple of counsellors said the "benchmark" for giving consent is 13 years of age, another believes 12, and two indicated grade six (ages 11–12 years). One counsellor echoed a minority opinion when she

stated, “I don’t believe that there is necessarily an age, but that each case should be reviewed on an individual basis.” In this case it was uncertain what criteria the counsellor would use to make a decision.

Issues of Professional Confidentiality

Counsellors were asked to comment on issues or concerns they might have with other counsellors with whom they work and with teachers, parents, and other professionals, including law enforcement officers. Some counsellors worked alone, so confidentiality with another counsellor was not an issue for them. When these same counsellors discussed cases with other counsellors within the profession, they reported a high degree of client confidentiality.

Counsellors commonly believed they acted professionally with counsellors with whom they worked, and talked of a mutual respect for the confidentiality of the students they counselled. They said that a school context required them to discuss cases with other available counsellors, and to be aware of keeping the identity of the student confidential. One counsellor summarized the common view in this way:

I believe when you share a space with someone, as we do in school counselling, there shouldn’t be a lot of rules around sharing information. The nature of this setting almost requires it. Quite often we see the same students, unless it’s an ongoing thing around a particular issue. Quite often, the other counsellor and I share information, using names, though I get a student’s permission before I do so.

Though the common perspective was one of talking with other counsellors without using “identifiers,” other counsellors raised issues pertaining to the specialized context of the school and school counselling. Some counsellors said it was okay to discuss “known” students with other counsellors because it was in the students’ best interests, and believed schools were environments that necessitate consultation among counsellors, even to the point of divulging information without student knowledge or approval.

A second concern was the rural context. Counsellors who worked in rural areas noted that discussing students was difficult because the other counsellor would know the student. These counsellors reported that they have a few options from which to choose such as obtaining permission from students to talk to the other counsellor, providing minimum “identifiers” on the person they discuss, or not discussing the case because of confidentiality.

One counsellor at the elementary level, who was the only counsellor at the school, said she faced a challenge to confidentiality when a student moved from the elementary level to the junior high level and required the services of the counsellor at the new school. If the student expressed an ambivalence or reluctance to contact a counsellor at the new school, the counsellor might offer to visit the school with the student, and introduce them to the new counsellor. In a similar vein, another counsellor said:

If a student changes schools and I get a call asking for some background information, I share in general terms. That may be breaking confidentiality, but if it’s helpful to the student, I’ll do it. Mind you, I also tell the counsellor, “I wasn’t talking to you and you didn’t get this information from me.” I’m guided by what I believe will help the kids.

This latter example seemed to represent solutions to dilemmas counsellors might face, yet the action taken clearly did not have the consent of the client. Because communication needed to occur between schools when students moved on, it raised the issue of how counsellors could communicate confidential information, but for which consent to share was needed. It was our experience that schools often passed counselling records from one counsellor to another without this consent; thus it remained an issue that needed to be addressed by most school districts.

Confidentiality with Teachers and Principals

Counsellors faced challenges with other teachers and with principals, many of whom they believed did not understand their role:

I have worked for a number of principals over the years, some of whom were very good about issues of confidentiality and some of whom were not. Some years I did not share or exchange information about students at all because I had no confidence in the principal.

Two participants who worked as both teacher and counsellor described different experiences with respect to perceived confidentiality. One had no difficulty moving from one role to the other, and felt confident her students understood which “hat” she wore at any given time. Yet another, although confident in moving from counsellor to teacher and vice versa, was in doubt about her clients’ belief that confidentiality was maintained when she was in the teacher’s role. In contrast, one counsellor stated, “Teachers who counsel aren’t as effective as counsellors, because they are still the student’s teacher. A counsellor should have only that function, not teach as well” and another stated:

There’s a thin line between being a teacher and being a counsellor. For example, as a teacher I won’t let them in the classroom if they’ve been drinking, but the counsellor in me wonders whether I should report it, which is what I as a teacher am required to do. As a counsellor, I wouldn’t have to report it to the administration. I try hard not to be put in the disciplinarian role.

This quote again emphasized the differences in roles between teacher and counsellor, especially that of keeping confidential information or acts shared by students. It also speaks to the dual relationships in which counsellors often find themselves.

Counsellors working in rural communities frequently reported the unique challenge of having potentially multiple sources for stories, including parents, other teachers, and other members of the community. They believed they face a particular challenge when teachers “gossip” in the staff room. Some counsellors said they were reluctant to discuss any client with anyone because they believed speculation about a person’s identity would most likely occur, thereby threatening confidentiality. One rural counsellor told of a situation where someone went to the police with information, and the student assumed she had done so. It took a long time for her to earn the student’s trust back—something she says she could not do with complete success until she could provide proof.

Other counsellors said that a potential for difficulties arose when a teacher referred a student and believed the counsellor should report back to them on the nature of the student’s issue and their progress:

There's an unspoken agreement that if they give me something to follow up, they won't necessarily be informed, unless they have a role to play. I tell them that information shared with me is confidential, so I won't necessarily inform staff.

Some counsellors believed teachers did this because they were curious, while others assumed it was borne out of a genuine concern and desire to help. In all cases, whether clients were self-referred or referred by teachers, parents, or administration, counsellors seemed to share the belief that when a teacher could provide a supportive role, they encouraged the client to let them share information with that teacher to the degree the client felt comfortable. They said they explained to the client that sharing information, even to indicate they are facing some personal difficulties, might help them with their teachers and even enlist their teacher's help where appropriate. Some counsellors seemed unlikely to be drawn into a discussion of subtleties and exceptions, while others admitted to feeling awkward and uncomfortable at attempts by teachers to elicit information concerning students. They were anxious they might convey something—even as subtly as through facial expressions or body language.

Issues and concerns regarding confidentiality and the sharing of information were also evident in relationships counsellors had with principals. In more than one case, counsellors reported difficulty with principals around the issue of the confidentiality of student counselling files. In some cases, despite the counsellor's stance on the issue, the school board insisted that the principal must have access to files on demand. Because of experiences like this, some counsellors expressed reticence to share any information with administration even when there was mutual respect between them. These common concerns were echoed in the comments of a counsellor who said:

We all struggle being in a school system, not really having protection from the Department of Education and boards who don't make a distinction between us and other teachers. There are issues for many of us around that lack of recognition. We have a code of ethics as teachers *and* one as counsellors, but there's not enough protection as counsellors from the Department of Education and the board.

DISCUSSION

Counsellors were often conflicted over issues pertaining to a child's right to autonomy, their right to self-determination, and what was perceived as the rights of others who had responsibilities related to the child. School counsellors in particular worked in settings where there were many stakeholders: children and their right to receive counselling and guidance; principals who were responsible for the well-being of the whole school; teachers who were genuinely concerned about children in their care, and who wanted to know about the emotional and psychological well-being of children; and parents who were ultimately responsible for their children, and who required communication from their children's counsellor. The results of interviews with counsellors portrayed a picture of how counsellors said they navigated this sometimes conflictual web of responsibilities. Dilemmas where counsellors have to weigh the importance of one ethical principle over another were evident throughout the interviews.

Counsellors in this investigation said they experienced conflict between their professional ethics, duty to their clients, and responsibility to teachers. When teachers experienced difficulty with a student or if a student experienced personal problems, they requested that the student see the counsellor. An update from the counsellor regarding their referral seemed to them natural and probably expected. When a counsellor did not have permission from the student to share information, potential conflict with teachers became a reality, one to which most counsellors had found solutions but for which no protocol had been instituted. Interestingly, counsellors said they felt isolated in schools, often feeling alone in their profession or misunderstood by teachers. The lack of communication regarding differences in these two professions, and how they could work more effectively together, contributed to this feeling of isolation.

Similar scenarios around confidentiality arose with the school principal. Results indicated that many counsellors had a positive and valued working relationship with their principal. Some counsellors said they did not, and this often created tension and mistrust. Though personal and professional relationships might be strained with teachers if a counsellor was perceived as unwilling to share information, the stakes were higher with a principal. Agee (1997) posited that a positive relationship between the principal of a school and the counsellor was critical in determining the level of support required by the counsellor to fulfil her professional role. Counsellors in our research agreed with the importance of having a trusting relationship with the principal. In most cases, counsellors tended to nurture their relationships with principals despite incidents where principals demanded they breach the confidentiality of a student. Several writers have attempted to understand the interactions between counsellors and principals, especially from the perspective of the counsellor's ethic of confidentiality. Kaplan (1995) presented an analysis of the nature of conflicts in the relationships between principals and counsellors, and suggested that each works from different paradigms that were nevertheless complementary, and that both needed to be willing to consider the rationale for one another's perspectives and priorities and establish a basis for a sound, respectful working relationship. Though true in intent, some counsellors suggested that conflictual relationships with principals around the confidential nature of their work continue to exist.

Our research inquired about the importance of informed consent and issues that pertained to it. This has always been a dilemma for counsellors. They were influenced by the rights of parents, the rights of the child to receive a service that could be helpful to them, the rules of the institution in which they worked, and legal implications of informed consent. Lawyers articulated a stance for the profession based upon legalities and often cited an education act or a school's act that was protective of the rights of parents. Counsellors we interviewed were quite obviously influenced by many of these concerns.

One finding that required some clarification was the age at which a person could give consent to participate in counselling or even to deny access of personal files should a parent or guardian make a request. The essential question was "What are the rights of the child with respect to the counselling principles of autonomy

and self determination?” Counsellors’ observations agreed with research on the topic of informed consent, but they discussed a variety of inconsistent practices on the issue.

Most counsellors agreed that 16 years was the age at which they felt a student could give informed consent, yet they remained uncertain as to whether a 16-year-old could deny his or her parent access to the counselling records. They believed a 16-year-old was aware of the nature of counselling services and the possible consequences of these services, conditions that met the legal definition of “mature minor” in Canada. At this age, counsellors felt a need neither to contact parents nor to inform them that they were counselling their adolescent.

The issue of informed consent became more complicated around adolescent issues like pregnancy and abortion. Counsellors often said, “Well, as a parent I would want to know,” and sometimes acted conservatively on the ethical principle of “responsible caring.” Sometimes they struggled with how these issues were related to the concept of harm, which required them to report to the principal and possibly to the parent of the adolescent. A complicating issue for many counsellors related to medical personnel who did not have to report to parents. When in doubt, and often as a matter of protocol, counsellors often referred young pregnant adolescents to the school nurse rather than compromise the client’s confidence by having to report.

Counsellors also discussed the youngest age at which they believed a child could give informed consent. A large number of counsellors said they were comfortable with 12-year-old students giving consent. Other counsellors discussed a comfort range between 12 and 14 years of age. This finding supported that of Leathley (1990) and others (Grisso & Vierling, 1978; Keith-Spiegel & Maas, 1981; Weithorn & Campbell, 1982), who acknowledged the right of a 12-year-old to privacy over the right of his or her parents to have access to information shared in the counselling context. These findings and those of our research indicated a need for serious discussion around children’s ability to exercise their rights as persons.

RECOMMENDATIONS FOR PRACTICE

Research on current counselling practice allowed for dialogue on issues and concerns faced by counsellors, and provided them an opportunity to contribute a voice to changes they believed were necessary in their profession. Analysis of in-depth interviews with counsellors on issues related to confidentiality and informed consent suggested they wanted a voice in the development of issues important to their professional counselling practice. An overarching principle in recommendations for practice was the proposal to include practicing counsellors in the decision-making process. This was implicit in the interviews we held, in addition to other significant conversations and involvements we have had with counsellors in the province.

1. Counsellors should begin dialogue on what they believe are the rights of children and adolescents with respect to receiving counselling services in a school environment. School is a special context where there are professionals

with different roles contributing to children's well-being. Counsellors who are professionals in their own right are governed by a school's act that is protective of parental rights and that can be conflictual with children's rights. This often leads to confusion resulting in various counselling practices from school to school.

2. Counsellors desire a cohesive and coherent policy on the issues of informed consent and confidentiality. A policy resulting from dialogue and consultation with counsellors would need to address the specifics of the counsellors' role on issues of informed consent and confidentiality. Arising out of this policy, protocols and forms related to confidentiality and sharing of information need to be developed for use in Nova Scotia schools. One example is the use of release-of-information forms that counsellors might use at the beginning of a counselling session so that they can discuss issues with teachers and other counsellors.
3. Much greater discussion needs to occur on the meaning and implications of informed consent for children. Currently counsellors are acting in a manner they believe is in the best interests of children and adolescents, but these practices are inconsistent across the province. In many instances, counsellors are confused about the meaning of informed consent. In some cases, informed consent relates to the children's rights to receive counselling without parental permission but it does not extend to these same children having the right to refuse access to their personal counselling files.
4. Counsellors need to be more cognizant of how their professional ethics affect the different stakeholders in children's education (teachers, parents, principal). Counsellors need to develop a provincial strategy to deal more effectively with communicating their unique professional role to these stakeholders.
5. Across Canada, many counsellors follow the *CCA Code of Ethics* (2006) and *CCA Standards of Practice* (2001). These two documents are useful as guides for the discussion and development of a provincial code of ethics.

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