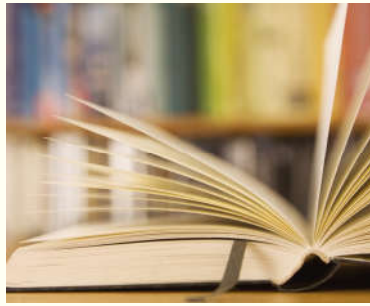


ETHICS AND SPECIAL EDUCATION REQUIREMENTS: Conflict and Resolution

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ArkSHA October 2018



Learning Objectives

- Identify ASHA Principles and Rules of Ethics relevant to school-based services
- Identify sources of special education policies and procedures (federal, state, local, or building level) and delineate areas of flexibility
- Identify strategies for resolution of conflicts between ethic and special education policies and procedures

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Disclosures

Financial

- Lissa is receiving an honorarium from ArkSHA for this presentation
- Lissa is an employee of Longwood University

Nonfinancial

- Lissa teaches Ethics and Professional Issues at Longwood University
- Lissa served as a Director in Special Education and Student Services at the Va. Dept. of Education

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Ethical decision-making

- Purpose is to create an outcome that resolves the situation and prevents future problem



Image from wizardsofthought.com

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What is the outcome you want?

Ideally –

1. Resolves situation
2. Changes behavior
3. Prevents future challenges

Ethical decision-making approach

- Step 1: Identify the ethical issue
- Step 2: Gather information to explain the situation
- Step 3: Consult resources
- Step 4: Brainstorm solutions to resolve and prevent
- Step 5: Select action

First: identify the ethical issue

- What ethical/moral principle is at issue?
 - Beneficence – do to good
 - Duty – to conform to standards
 - Fidelity – faithful to our commitments
 - Justice – to treat with equity



Review the Code of Ethics

- A **framework and focused guide** for professionals in support of day-to-day decision-making related to professional conduct
 - ASHA Code of Ethics, 2016
 - <https://www.asha.org/Code-of-Ethics/>
 - Revised 2014-15
- Partly obligatory and disciplinary and partly **aspirational** and descriptive

Who is covered by the Code of Ethics

Covered

- ASHA members
- ASHA certificate holders
- Applicants for membership or certification
- Clinical Fellows

Not covered

- Non-ASHA members who hold state education credentials
- SLPAs
- Provisionally licensed SLPs

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Four Principles of Ethics

- I. responsibility to **persons served** professionally and to research participants, both human and animal;
- II. responsibility for one's **professional competence**;
- III. responsibility to the **public**; and
- IV. responsibility for **professional relationships**.

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Principle I: Responsibility to the persons served

- Provide services competently
- Use every resource, including referral, to ensure high quality service is provided
- Shall not discriminate
- Shall not misrepresent credentials of persons under supervision
- Shall not delegate tasks that require unique skills
- Shall not guarantee results

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- Maintain and secure records
- Shall not reveal professional or personal information without authorization
- Shall accurately bill for services and products dispensed
- Seek professional assistance if affected by substance abuse, addiction, or health-related conditions, or, when appropriate, withdraw from practice
- Shall not discontinue services without reasonable notice
-

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What Rules of Ethics in Principle I may be implicated issues in schools?

Principle II: Professional Competence

- Engage in only those aspects of the professions that are within the scope of practice and individual competence
- Engage in lifelong learning
- Shall not permit staff to provide services or conduct research that exceed competence ...
- Ensure any technology and instrumentation is in working order and properly calibrated
- ...

What Rules of Ethics in Principle II may be implicated by issues in schools?

Principle III: Responsibility to the Public

- Shall not misrepresent credentials, competence, education, ...
- Shall not participate in a conflict of interest
- Shall not refer based on personal interest
- Shall not misrepresent research, diagnostic information, services, results of service, products dispensed
- Shall not defraud in connection with payment, reimbursement, grants, research
- Shall adhere to professional standards in statements to the public
- ...

What Rules of Ethics in Principle III may be implicated by issues in schools?

Principle IV: Responsibility to the Professions

- Shall work collaboratively in the profession and with other professions
- Exercises independent judgement
- No knowingly permit anyone supervised from violating Code of Ethics
- Shall not engage in dishonesty, fraud, deceit, misrepresentation
- Shall not engage in any form of harassment
- Reference sources appropriately
- Shall not discriminate in relationships

What Rules of Ethics in Principle IV may be implicated by issues in schools?

Embed yourself in the Code of Ethics



Step 2: Get the story straight

- Many ethical dilemmas stem from a lack of facts and/or failure to explain the problem
- Ask yourself ... what is the major issue?
- What information **am I missing?**



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The first to present his case seems right, until another comes forward and questions him. Proverbs 18:17

“If you are convinced of the facts before you start investigating, even the smallest bit of evidence that seems to match your presuppositions will blind you to the full story.” Ken May

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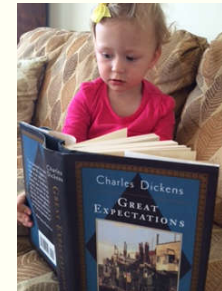
Many ethical dilemmas stem from a lack of facts about a given situation and/or from failure to clearly explain the problem.

Check yourself from drawing conclusions without complete data

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Step 3: Consult resources



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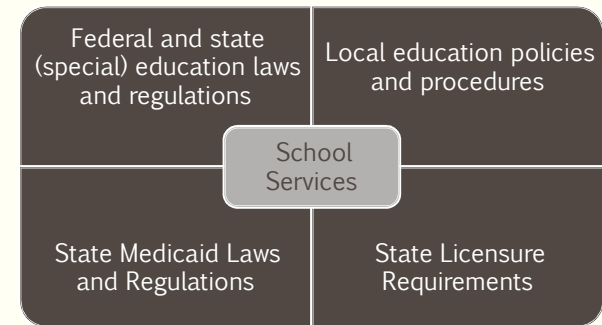
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What policies and procedures would you investigate?



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Laws, Regulations, & Policies effecting School-Based Professionals



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Special Education Laws, Regulations and Policies

Requirement	Sources(s)
Evaluation, eligibility, IEP	Federal, state, local
Parental Consent	Federal, state, local
Timelines	Federal, state, local
Caseloads	State, local
Provider Qualifications	State, local
Manifestation determination	Federal, state, local

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Other Requirements

Medicaid

- Timelines
- Documentation
- Eligibility
- Personnel Qualifications

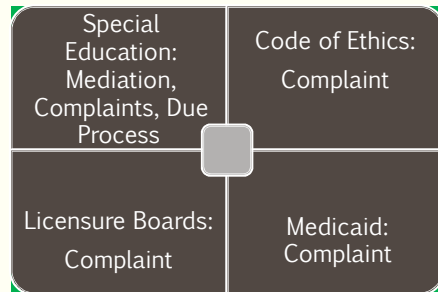
Licensure (education and licensure board)

- Qualifications
- Scope of practice (licensure board)

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Resolution Processes



Resources: ASHA's State-by-State resources
<http://www.asha.org/advocacy/state>

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Local Policies and Procedures

- Personnel
- Harassment
- Use of funds
- Timelines
- Documentation
- Caseload
- Use of technology



Image from ed.buffalo.edu

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Consultation – a KEY Step

- Trusted, knowledgeable professional who can ...
 - Explain laws, regulations, policy
 - Listen objectively
 - Provide feedback and suggestions
- ASHA staff
 - Schools
 - Ethics
 - Medicaid
- State Department of Education
- State Medicaid
- Licensure board
- NEA/Union (if applicable)



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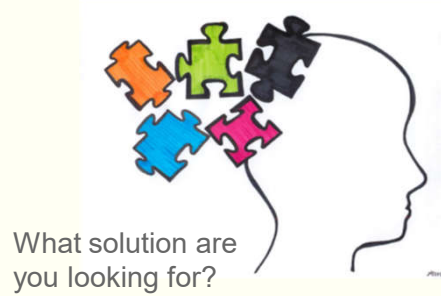
Review ASHA's Resources: Ethics, Schools, Practice Portal

- <http://www.asha.org/Practice/ethics/>
- <https://www.asha.org/slp/schools/>
- <http://www.asha.org/practice-portal/>

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Step 4: Brainstorm a **variety** of courses of action



THERE RARELY IS A ZERO-RISK OPTION.

Bupp and Hasselkus, 2012



Options

Doing nothing is making a decision to take a particular course of action



Options

Discuss and Resolve

- With colleague
- With supervisor
- With agency compliance officers



Resolution may involve (re)training on policies and procedures, continuing education

Options

Report

Supervisor (special education director, principal)
ASHA Board of Ethics
State Licensure Board
State Dept. of Education



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Questions to ask yourself ...

- Do you know everything you need to know to take action?
- Would someone say you have a vested self-interest in taking this action?



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Step 5: Select and Implement Action

Ideally – a “win win” approach



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ETHICS ISSUES RAISED TO THE ASHA BOARD OF ETHICS

Bupp, 2012

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1. Documentation Lapses
2. Employer demands
3. Use and supervision of support personnel
4. Clinical Fellowship Mentoring/Student Supervision
5. Client Abandonment
6. Reimbursement for services
7. Business competition ethics
8. Practitioners with impairment
9. Affirmative Disclosures

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Let's look at these issues using school-based examples



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1. Documentation Lapses

- An SLP has an exceptionally heavy caseload and has challenges in managing her “to do” list. As child study committees and evaluations pick up, the following errors are noted:
 - Delays in completing reports and IEPs, exceeding special education timelines
 - Incomplete evaluations and IEPs



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2. Employer Demand – services without qualifications

- A school district that has a shortage of SLPs has hired an man with a bachelors' degree in communication sciences and disorders. The man has a caseload of the same size as the masters' level clinicians.



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2. Employer Demand – IEP intervention

- You have been working with a student for whom speech is a related services for many years and are ready to dismiss based on acquisition of goals. The child would continue to be eligible for special education services for intellectual disability. The parent is unhappy about discontinuing speech services.
- Your special education director directs you to write goals and services in the next IEP for the child.



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2. Employer Demand – Caseload demands

- The caseload maximum in your state is 55. Your caseload has averaged 52 throughout the fall. In the spring, a large number of children are found eligible for speech-language impairment and your special education director tells you to pick them up on your caseload. Your caseload would reach 62.



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2. Employer Demands - Services

- You provide telepractice services at a rural school site as the sole SLP.
- One student with childhood apraxia of speech is not adjusting well to telepractice services and is not making progress. You identify that the student needs to be seen in person.
- As you share the information with the special education team, they plead with you to continue to see the student because there is no SLP at that school.



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3. Clinical fellowship supervision

- The CF is excited about working with her CF supervisor to learn from her expertise. The supervisor met with the CF during the first month of the CF.
- In the last 4 months, the supervisor has not visited the CF, only infrequently responds to questions, and has not reviewed any of the CF's reports.



5. Reimbursement – misuse of codes

- The SLP is serving a child with language delay who has a had one bout with otitis media a year before starting services.
- Your district bills Medicaid for services and the billing clerk tells you she is billing under a hearing loss code.



7. Practitioners with impairment

- The SLP has been noted to arrive late and leave early with great regularity. She is often confused when speaking with her colleagues and her record-keeping is incomplete or inaccurate.



Other Issues

- Family wishes to have Rapid Prompting Method used with their child, insisting that this is the only procedure they will agree to at the the IEP.



Other Issue: No SLPs in the district have experience with feeding/swallowing:

- Although all SLPs had dysphagia coursework and experience in graduate school, they have not had experience since (3 - 10 yrs) and no experience with children.



Your issues?



Our decisions and actions reflect not only upon our individual reputations but also upon the reputation of our workplace and profession.

Our actions should be guided by ethical principles even when confronted by personal, professional, social, or economic pressures.

Adapted from VCU Code of Conduct, 2013



Always do what is right. That will satisfy most people and astonish the rest.

Attributed to Mark Twain

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