The NASP 2020 *Principles for Professional Ethics*

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Overview

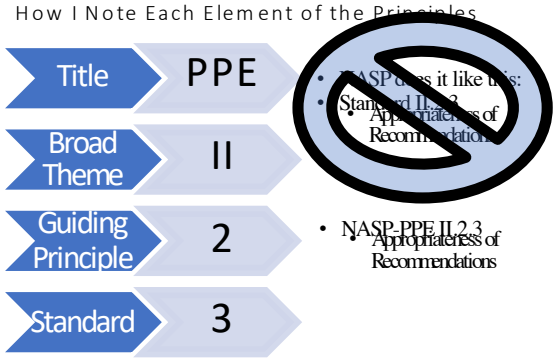
- Professional Standards
  - History
  - Objectives
  - Purpose
  - Themes
- Detailed Coverage of 3 Topics
  1. Private Notes
  2. Consent
  3. Protocols

1. Sole Possession Notes
2. Consent
   - What it is
   - Consent vs. Notice
   - When it is not required
   - When it is required
   - Student assent
   - Confidentiality
   - Record Keeping
3. Protocols and Parents

NASP 2020 Professional Standards

- The standards consist of four separate, yet integrated, documents:
  1. Model for Comprehensive and Integrated School Psychological Services (also known as the NASP Practice Model)
  2. Standards for Graduate Preparation of School Psychologists
  3. Standards for the Credentialing of School Psychologists
  4. Principles for Professional Ethics

How I Note Each Element of the Principles



- NASP does it like this:
- Standard II.2.3
  - Appropriateness of Recommendations

- NASP-PPE II.2.3
  - Appropriateness of Recommendations

History

- May 2020
  - The NASP Leadership Assembly approved the NASP 2020 Professional Standards.
    - This includes the Principles for Professional Ethics.
- July 1, 2020
  - The NASP 2020 Principles for Professional Ethics went into effect

- The Ethics describe the proper conduct for professional school psychologists.
  - NASP members
  - School psychologists holding the NCSP
  - NASP encourages all school psychologists to follow the principles.
    - Some States Associations abide by them

The Purpose of the Principles

- To protect the public and those who receive school psychological services by:
  1. Sensitizing school psychologists to the ethical aspects of their work,
  2. Educating them about appropriate conduct,
  3. Helping them monitor their own behavior, and
  4. Providing standards to be used in the resolution of complaints of unethical conduct.
- Focus is on Proactive Positive Action
  - Even the resolution process is positively framed

NASP PPE Broad Themes

1. Respecting the dignity and rights of all persons
2. Professional competency and responsibility
3. Honesty and integrity in professional relationships
4. Responsibility to schools, families, communities, the profession, and society

Presentation Topics

- Practical Topics in Ethics
  1. Sole Possession Notes or Private notes
     - This is a contentious issue (misunderstood)
  2. Consent
     - This standard touches everything we do
  3. Protocols
     - This is a contentious issue (legal and ethical)

Sole Possession Notes

Psychotherapy notes

Psychotherapy notes

- Notes recorded (in any medium) by a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and
  - that are separated from the rest of the individual's record.
  - Discussed in terms of medical records

Psychotherapy Notes

- Are granted special protection under HIPAA
  - Separate from the medical record
  - They are the personal notes of the treating therapist
    - intended to help him or her recall the therapy discussion or session content
    - Not to be see by any other person
  - They must not be the only source of any information that would be critical for the treatment of the patient
    - You do not have to provide access to clients
    - These notes can be subpoenaed

Parents Engagement Philosophy

- NASP
  - Encourage and promote parental participation
  - School psychologists encourage and promote parental participation in school decisions affecting their children.
- The Georgia Department of Education
  - Knows that parents are a student's first and best teacher.
  - Parents, schools, families, and communities working together.

What are Psychotherapy Notes?

- They are similar to elements of the process notes
  - that capture the therapist's impressions about the patient
  - contain details of the psychotherapy conversation considered to be inappropriate for the medical record
  - the content of a dream
  - or the experience of guilt associated with a "forbidden" feeling, etc.
- Subjective
- Objective
  - Client perception
  - physical, interpersonal, or psychological findings that you see
- Assessment
  - summarization of the counselor's clinical thinking regarding the issue
- Plan
  - Interventions

Psychotherapy note and personal notes

- HIPAA
  - The following are considered part of the official record:
    - medication prescription and monitoring
    - counseling session start and stop times
    - the modalities and frequencies of treatment furnished
    - results of clinical tests
    - any summary of the patient's diagnosis
    - functional status
    - treatment plan
    - symptoms
    - prognosis
    - progress to date

HIPPA Summary

- Notes that are protected are notes that are of value to no one else.
  - Why would medical professionals need to know about the therapeutic process?
- They are kept separate from the rest of the record and the notes contain
  - Clinical impressions
  - no information that would be of value to the treatment of the client.
  - Memory aids are suggested

Family Educational Rights and Privacy Act 1974 FERPA

- Adhere to pupil record keeping procedure outlined in the law.
- Parents have access to all official school records.
  - The Nurse's records are covered by HIPAA
- IDEA
  - Parents have access to all educational records
    - School personnel
      - Need to know access

Legal Questions

1. What is the summarization of the counselor's clinical thinking regarding the issue?
   - Your conceptualization of the issue
2. Do your clinical impressions drive your treatment?
   - 100%
3. Is this the only source of information about how you understand the issue, and is it critical for the treatment of the individual?

What Drives Treatment?

Memory Aids

- Phone record
- Hair color
- Type of car
- Favorite song/color
- Type of shoes

Critical to the Treatment

- Therapeutic Impressions
- Theoretical understanding
- Individual conceptualization

Laws Summary

- The HIPAA privacy rules give special protection to "psychotherapy notes,"
- IDEA and FERPA don't discuss sole possession notes in school systems
  - There is some legal overlap with HIPAA and FERPA

Ethical Standards that Apply to Sole Possession Notes

1. NASP PPE II.4.8 Sole Possession Record
2. NASP-PPE I.2.1 Sensitive Information
3. NASP-PPE II.4.3 Content of Records
4. NASP-PPE II.4.2 Comprehensive Records
5. NASP PPE II.4.6 Access to Records by School Personnel
6. NASP PPE IV.2.2 Intersection of Law and Ethics

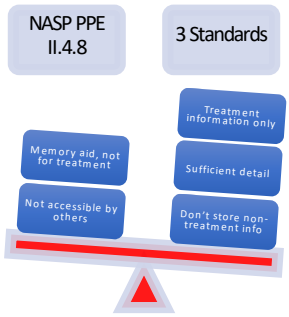
NASP PPE II.4.8

- Sole Possession Record
  - What it is:
    - Not accessible to anyone else
    - Memory aid only
  - What it is not:
    - Any and all information that is used to make educational decisions cannot be part of a sole possession record and must be accessible to the parent and adult student
      - Anything to do with educational decisions = school based interventions

Competing Standards

- NASP-PPE I.2.1 Sensitive Information
  - Do not seek or store private information about clients that is not needed to provide services
- NASP-PPE II.4.3 Content of Records
  - Reliable sources
  - Don't store any private information about students or families if it is not needed for the provision of services
- NASP-PPE II.4.2 Comprehensive Records
  - Psychological and education records are kept in sufficient detail to be useful by another professional and withstand scrutiny under legal process

Do you need sole possession notes?



Should you Keep Sole Possession Notes?

- Legally and ethically, you can have sole possession notes.
  - Yes, but what does it mean?
- The real questions are, "what can you have in those notes and what do you do with them?"
  - Case notes drive treatment and jar the memory
    - I see no value in an additional memory aids

NASP PPE II.4.6

- **Access to Records by School Personnel**
  - To the extent that school psychological records are under their control, school psychologists ensure that only those school personnel who have a legitimate educational interest in a student are given access to that student's school psychological records without prior parental permission or the permission of an adult student.
    - This standard applies to access to physical and electronic records.

School Based Psychotherapy Notes

1. You will need to keep session notes.
2. Other school personnel should have access to them.
3. How should they be stored?
   - Why not like the nurse's notes or the counselor's notes?

- Kept by the school psychologist in a locked/password protected file.
  - Passed on to the next school psychologist
  - The LEA is aware of them
  - Ethically, parents would have access (you explain them)
  - Can be subpoenaed

All Notes Can Be Subpoenaed

Accessible to Parents

- Reason for the intervention
  - Symptoms/behaviors
- Basic treatment plan
  - Frequency and length of counseling sessions
  - General modalities of treatment furnished
  - Pre post measurement results
- Summary of the patient's diagnosis/progress

Possible Parent Access

- Therapeutic Impressions
- Theoretical understanding
- Individual conceptualization
- Specific reactions or therapeutic impressions of client to modalities used

School personal access = Need to Know

Sole Possession Notes

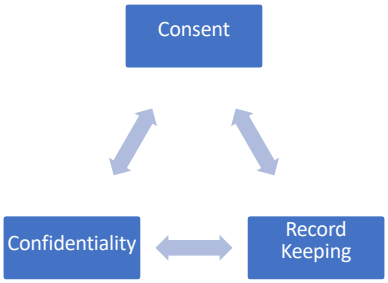
Confidential Information

Confidential Information

- Information which is produced by a person who has a reasonable expectation that the information will only be shared by other people with the explicit consent of the person who produced it.
  - Consent/confidential information is defined in IDEA
  - Confidentiality is detailed in the HIPAA privacy rule in the US and in the Official Code of Georgia

Keeping Confidential Information Confidential is Both

Confidential Information



Remember the Parents Engagement Philosophy

- NASP
  - Encourage and promote parental participation
  - School psychologists encourage and promote **parental participation** in school decisions affecting their children.
- The Georgia Department of Education
  - Knows that parents are a student's first and best teacher.
  - Parents, schools, families, and communities working together.

Consent

- Voluntarily agreeing to the proposal or actions to be taken
  - The individuals must have enough information to make an informed decision
  - Requires Action

Notice

- Informing or warning an individual of something or that something will occur
  - No need for confirmation of receipt
  - Does not require action

Informed Consent vs. Notice

- Consent requires affirmative permission before action can be taken.
  - By definition it is active

- Notice is informing
  - Assumes they receives the information

Passive Consent = Notice

- **Active and passive consent**
  - Active Consent – a signature before any action is taken (action)
  - Passive Consent – they must respond to be removed from the action
    - Are you sure they got the information?
    - This is **NOTICE**

What is Informed consent?

NASP Standards for Informed Consent

1. **NASP-PPE, I.1.3 Seeking Informed Consent**
2. **NASP-PPE III.1.1 Accurate Presentation of Professional Qualifications**
3. **NASP-PPE, III.2.1 Explanation of Services to Client**
   - Additional Standards apply, but focus on confidentiality or other specific elements
     - NASP-PPE, I.2.2 and I.2.3 – Limits to Confidentiality
     - NASP-PPE, III.1.1 Accurate Presentation of Professional Qualifications

Key Elements of Informed Consent

- You must make a good faith effort to disclose enough information so that they can make an informed decision.
  1. Knowing
     - Have and understand the information (Next slide)
  2. Competent
     - Over 18 and legally competent
       - All adults 18+ (unless they have been judged otherwise)
       - Under 18 emancipated by a judge (court appointed advocate)
  3. Voluntary
     - Obtained in the absence of coercion, duress, misrepresentation, or undue inducement
       - Cannot use fear to motivate them

NASP-PPE, I.1.3 Needed Components

- You need to describe the nature, scope, and goals of the _____ (counseling sessions, assessment, intervention, etc.)
  1. Their expected duration
  2. Any benefits that can be reasonably expected
  3. The likely consequences of not receiving services
  4. Any foreseeable risks or discomfort or consequences of the service (for the student or family)
  5. Any cost to the parent or student
  6. Alternative services available
  7. Who receives information about the assessment/intervention
  8. Limits to confidentiality
  9. Your competency

NASP-PPE, I.2.3
NASP-PPE, III.1.1

Additional - NASP-PPE, I.1.3

- School psychologists appropriately document written or oral consent.
- Any service provision by interns, practicum students, or other trainees
  - is explained and agreed to in advance, and the identity and responsibilities of the supervising school psychologist are explained prior to the provision of services.
    - NASP-PPE II.2.4 Responsibility for Graduate Student's work
      - Supervisor is Responsible

Your Competency

- NASP-PPE III.1.1
  - Accurate Presentation of Professional Qualifications
    - Accurately identify their professional qualifications to others.
      - Competency levels, education, graduate preparation, experience, and certification and licensing credentials are accurately presented to:
        - clients, other recipients of services, potential and current employers, credentialing bodies, and public forums

NASP-PPE, III.2.1 Explanation of Services

- Explain their
  - professional competencies, roles, assignments, and working relationships to recipients of services and others in their work setting in a forthright and understandable manner.
- School psychologists explain all professional services to clients in a clear, understandable manner.

When is consent required and when is it not?

The Application of Consent

- As it pertains to school roles
  1. NASP-PPE I.1.1 When Consent Is/Is Not Required
  2. NASP-PPE I.1.2 Consent to Establish a School Psychologist–Client Relationship
  3. NASP-PPE I.1.3 Seeking Informed Consent
  4. NASP-PPE I.1.5 Right to Refuse or Withdraw Consent

NASP PPE I.1.1
Consent is not required

1. For school-based consultation services
   a) When the intervention is implemented by the teacher and
   b) within the scope of typical classroom interventions.
2. When a school-based school psychologist:
   a) reviews a student's education records
   b) conducts classroom observations
   c) assists in within-classroom interventions and progress monitoring
   d) or participates in educational screenings (planned)

Consent or prior notice is not required continued

- **NASP PPE I.1.2**
  - For urgent situations or self-referrals by a minor student
- NASP PPE I.1.2a
  - in emergency situations or
  - Safety
    - if there is reason to believe a student may pose a danger to others; is at risk for self-harm; or is in danger of injury, exploitation, or maltreatment.
- NASP PPE I.1.2b
  - Minor self-refers for assistance for one or several meetings to establish the nature and degree of the need for services and to ensure that the child is safe and not in danger.
  - mature students where allowed by state law and LEA

After Urgent Situations and/or Self referrals

- **NASP PPE I.1.2b (Minors)**
  1. The school psychologist obtains parental consent to provide continuing assistance to the student beyond the preliminary meetings or
  2. refers the student to alternative sources of assistance that do not require parental notice or consent.

How?

- **After the urgent situations or self-referrals, the school psychologist should:**
  - Contact parents and get parental consent for counseling sessions if they plan to continue
    - Possibilities:
      - Call with the student present (verify number)
      - Offer to meet jointly with the student and parents to discuss consent and ensure ongoing parent support.
    - Meet with parent and cover informed consent.
      - Have a signed inform consent

Summary - Consent or prior notice is not required

1. Simple consultation
2. Records review
3. Classroom observations
4. School or teacher classroom interventions and progress monitoring
5. Educational screenings (planned)
6. Self referrals
7. Safety assessment
8. Crisis or emergency situations
9. Mature students (they can give consent)

NASP PPE I.1.1 Consent is required

- If the consultation is likely to be:
  - extensive and ongoing and/or
  - a significant intrusion on student or family privacy beyond what might be expected in the course of ordinary school activities.
- Parents must be notified when the school or school psychologist intends to administer:
  - a survey that screens for mental health problems, and:
    - those parents must be given the opportunity to remove their child or adolescent from participation in such screenings.

NASP PPE I.1.2 Consent is required

- Consent from mature student (18) or parents
  - Prior to establishing a school psychologist–client relationship
    - for the purpose of:
      1. psychological diagnosis
      2. assessment of eligibility for special education or disability accommodations
      3. to provide ongoing individual or group counseling
      4. other therapeutic intervention outside the classroom

Summary - Consent is required

1. Consultation when it is involved
2. For psychological diagnosis
3. For assessment of eligibility for special education or disability accommodations
4. To provide ongoing individual or group counseling
5. For other therapeutic intervention outside the classroom

NASP PPE I.1.1 Notice is Required

- **For a mental health screening/survey**
  - Requires active notice
    - Parents must be given the opportunity to remove their child or adolescent from participation in such screenings.
      - This means you must insure they received the notice

NASP PPE I.1.5

- **Right to refuse or withdraw consent**
  1. School psychologists respect the wishes of parents who object to school psychological services
     - and attempt to guide parents to alternative resources.
  2. School psychologists allow parents to withdraw consent at any time without negative repercussions.

Student Assent

NASP Standards for Assent

1. NASP-PPE I.1.4 Assent
2. NASP-PPE II.3.14 Student Assent for Assistance

NASP-PPE I.1.4
Assent

- Encourage a minor student's voluntary participation in decision making about school psychological services as much as feasible.
  - a
    - Inform them of the service
  - b
    - If choice is given, make sure they understand options
  - Ordinarily, school psychologists seek the student's assent to services;
    - however, it is ethically permissible to bypass student assent to services if the service is considered to be of direct benefit or is required by law.
      - Don't ask if they have no options (assessment/intervention)

NASP-PPE II.3.14

- Student Assent for Assistance
  - School psychologists discuss with students the recommendations and plans for assisting them.
  - To the maximum extent appropriate, students are invited to participate in selecting and planning interventions.

Confidentiality

NASP Standards for Confidentiality

1. Standard I.1.3 Seeking Informed Consent
2. Standard I.2.2 Boundaries of Confidentiality
3. Standard I.2.3 Consent for Disclosure of Information
4. Standard I.2.4 Need to Know
5. Standard II.4.3 Content of School Psychological Education Records
6. Standard II.4.6 Access to Records by School Personnel
7. Standard II.4.7 Electronic Record Keeping
8. Standard II.4.9 Retention of Records

NASP-PPE I.2.1 Sensitive Information

- Do not seek or store private information about clients that is not needed in the provision of services.
  - When a report from a professional outside the school system that includes information that is intrusive of family privacy and not necessary for school decision making
    - return the report to the maker with a request for redaction of the problematic information

NASP-PPE I.2.2 Boundaries of Confidentiality

- At the outset of establishing a professional relationship.
  - Regarding the types of information that will and will not be shared with third parties.
    - However, if a child or adolescent is in immediate need of assistance, it is permissible to delay the discussion of confidentiality until the immediate crisis is resolved.
  - It may be necessary to discuss confidentiality at multiple points
    - to ensure understanding

NASP PPE, I.2.3 Disclosure

- School psychologists respect the confidentiality of information obtained during their professional work.
  - Information is not revealed to third parties without the agreement of a minor child's parent, legal guardian, or of an adult student, except:
    - failure to release information could result in danger to the student or others, or where otherwise required by law.
      - Whenever feasible, the student's assent is obtained prior to disclosure of their confidences to third parties, including disclosures to the student's parents.

The Limits to Confidentiality?

1. Where there is a reasonable suspicion of child abuse or elder adult physical abuse
2. Where there is a reasonable suspicion that you may present a danger of violence to others
3. Where there is a reasonable suspicion that you are likely to harm yourself unless protective measures are taken
4. When there is a legal obligation. (subpoenaed/ordered by a judge)

Elder-someone age 60 or older and/or developmental issues

Breaching Confidentiality

- Tarasoff warning
  - Legal requirement in most States
  - Ethically required
  - Case Law makes this a precedent
    - This is a principle or rule established in a previous legal case that is either binding on or persuasive for a court or other tribunal when deciding subsequent cases with similar issues or facts
- Mandatory reporting
  - Legal requirement in ALL States
  - Child abuse/neglect (Elderly)
  - Statutory rape

Release of Information

- Legal document used to give permission to release specific information to a third party.
  - You are releasing info on behalf of the parent to another professional
- Must be specific (what) and have a time frame (how long)
  - Release of information is discussed in NASP-PPE I.2.3 and NASP-PPE I.2.4

    (Legitimate Need to know)
    - release confidential information only for professional purposes and only with persons who have a legitimate need to know.

Release of Information

- A document that allows the consumer to decide what information they want to release from their file, who they want it released to, how long it is released
- Basic elements
  - A meaningful description of the information to be disclosed
  - The name of the individual or the name of the person authorized to make the requested disclosure
  - The name or other identification of the recipient of the information
  - A description of each purpose of the disclosure (The statement "at the request of the individual" is sufficient when the individual initiates the authorization and does not, or elects not to, provide a statement of the purpose)
  - An expiration date or an expiration event that relates to the individual
  - A signature of the individual or their personal representative (someone authorized to make health care decisions on behalf of the individual) and the date.

you can release that information and under what statutes and guidelines

Additional Standards

- NASP PPE I.2.5
  - **Privacy Related to Sexual Orientation and Gender Identity and Expression**
    - Do not share information about the sexual orientation, gender identity, or transgender status of a student (including minors), parent, or school employee with anyone without that individual's permission.
- NASP PPE I.2.6
  - **Privacy of Health Information**
    - Do not share sensitive health information about a student, parent, or school employee with others without that individual's permission (or the permission of a parent or guardian in the case of a minor).

Record Keeping

Standards for Record Keeping

1. NASP PPE II.4.3
   - Content of School Psychological Education Records
     - Reliable sources and only information need to provide services
2. NASP PPE II.4.6
   - Access to Records by School Personnel
     - Legitimate educational interest
3. NASP PPE II.4.7
   - Electronic Record Keeping
     - password and encryption
4. NASP PPE II.4.9 Retention of Records (policy)

Consent

protocols and Parents

Standards for Protocols

1. NASP PPE II.4.5 Test Protocols
2. NASP PPE II.5.1 Test Security
3. NASP PPE II.5.3 Intellectual Property
4. NASP PPE IV.2.2 Intersection of Law and Ethics
5. NASP PPE IV.2.3 Conflicts Between Law and Ethical Principles

NASP PPE II.4.5 Test Protocols

- School psychologists respect the right of parents (and eligible students) to:
  - inspect, but not necessarily to copy, their child's (or their own).
  - School psychologists understand that the right of parents (and eligible students) to examine their child's (or their own) test answers may supersede the interests of test publishers.

NASP PPE II.5.1 Test Security

- Maintain test security, preventing the release of underlying principles and specific content that would undermine or invalidate the use of the instrument.
  - Opportunity to inspect and review their child's (or their own) test answers.
    - When required by law or district policy, school psychologists may ethically provide parents (or eligible students) copies of their child's (or their own) completed test protocol.
    - At the request of a parent (or eligible student), it is also ethically permissible to provide copies of test protocols to a professional who is qualified to interpret them.

NASP PPE II.5.3 Intellectual Property

- They do not duplicate copyright-protected test manuals, testing materials, or unused test protocols without the permission of the producer.
  - Printed or digital formats
  - Blanks

Ethics and The Law

NASP PPE IV.2.2 Intersection of Law and Ethics

- Respect the law and the civil and legal rights of students and other clients.
- The *Principles for Professional Ethics* may require a more stringent standard of conduct than law, and in those situations school psychologists are expected to adhere to the Principles.

NASP PPE IV.2.3 Conflicts Between Law and Ethical Principles

- When conflicts between ethics and law occur:
- Take steps to resolve the conflict through positive, respected, and legal channels.
  - If they are not able to resolve the conflict in this manner, they may abide by the law, as long as the resulting actions do not violate basic human rights.

One Step at a Time

Laws vs. Ethics

1. Parents or adult students want a copy of their protocol
   - We meet and explain the protocol
2. If they still want a copy
   - We explain copyright laws and why this is problematic
   - We explain that without interpretation, the protocol makes no sense
3. They still want a copy
   - We agree to send it to a qualified person to interpret it for them
4. They refuse and/or still want a copy
   - We provide a copy

Protocols and Parents

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QUESTIONS?
COMMENTS?
CONCERNS?