



# OSCA Ethical Guidelines for Ontario School Counsellors



Ontario School  
Counsellors' Association  
L'association des conseillères/  
conseillers d'orientation  
scolaire de l'Ontario

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## INTRODUCTION

### Development

The original document entitled, **An Ethical Legal Handbook**, was compiled and edited by Lee Howden, OSCA Director 1977-1980

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## Ontario school counsellor's Association

The Ontario School Counsellors' Association (OSCA) is a professional organization whose membership is largely made up of school counsellors in both elementary and secondary panels from Public, Catholic, Private school boards, and Education Authorities. Members must be active participants in Guidance programs and curriculum across Ontario, in the training of guidance personnel, or in duties related to the delivery and supervision of Education and Career and Life Planning Programs. It is expected that members support the Mission Statement and Statement of Principles of the Association as articulated in the OSCA Handbook and as detailed below.

### Mission Statement

OSCA provides leadership and support in Guidance and Career Education for Guidance Teacher-Counsellors and students.

### Statement of Principles

OSCA will:

- Be a proactive professional organization
- Advocate for guidance and career education
- Represent its members
- Promote exemplary guidance and career education practices
- Build strong relationships
- Provide professional resources and training
- Provide leadership in guidance issues and trends

### Aims of the guidelines

The Guidelines have been developed to clarify Ontario school counsellors' understanding of their position in terms of the profession's ethical principles.

There are two subsequent aims worthy of note.

1. The Guidelines will be of assistance in counsellor education programs or professional development by stimulating dialogue regarding ethical principles.
2. It is intended to be used as a reference tool to encourage reflection regarding one's own personal practice. This will allow Counsellors to review various scenarios they may encounter in academic/personal counselling sessions with students.

For the purposes of this document, a "counsellor" is defined as a qualified teacher, with additional qualifications in Guidance (recognized by the Ontario College of Teachers), working in a guidance and career education capacity in an educational setting.

This document is not intended to provide legal advice. All teachers must be accountable to the [Ethical Standards stated by the Ontario College of Teachers](#), the governance within their own school board, the policies of the [Ontario Ministry of Education](#), and legal manifestos, such as the [Age Based Milestones](#). Above all else, a counsellor must know and understand the [Ontario Human Rights Code](#) as it has primacy over all other provincial laws.

## Use of the guidelines

### Definition of Ethics

The Merriam-Webster Dictionary defines [Ethics](#) as the following:

1. The discipline dealing with what is good and bad and with moral duty and obligation
2.
  - A. A set of moral principles: a theory or system of moral values
  - B. The principles of conduct governing an individual or group
  - C. A guiding philosophy
  - D. A consciousness of moral importance
3. A set of moral issues or aspects

It is the intent of this document to assist guidance counsellors in making decisions should they be faced with a situation where an ethical decision is required. Under each ethical standard, cases illustrating ethical and unethical conduct are outlined. Each example is classified as acceptable (consistent with ethical principles) or unacceptable (inconsistent with ethical principles). There has been no attempt to distinguish degrees of consistency or inconsistency within the ethical statements. For example, some of the incidents labelled unacceptable are examples of grossly unethical conduct, while others exemplify poor judgement. Following each set of cases illustrating acceptable and unacceptable conduct in relation to the ethical standards, there may be a section called Ethically Speaking where the reader will find educational, ministerial, or other documents to consider.

The logo for OSCA/ACOSO is a large, light blue watermark centered on the page. It features the text 'OSCA/ACOSO' in a serif font, with a stylized graphic of several parallel diagonal lines above the text.

## PROFESSIONAL COMPETENCE AND CONDUCT

**01** Counsellors, as professional certified teachers, are expected to seek opportunities to continue their own professional growth, enhance their professional knowledge and skills, develop their professional portfolio and work towards the improvement of their profession. Counsellors should maintain the practices of exchanging ideas, networking, and sharing resources.

### Acceptable Cases

- a) On becoming aware that a colleague, who counsels similar grade levels, does not feel competent in handling teacher-pupil problems, a counsellor agrees to share expertise with their associate. They provide suggestions, encouragement, and constructive criticism.
- b) A counsellor initiates a peer-helping program in their school. Finding it to be effective, they offer to share information about the program with other schools.

### Unacceptable Cases

- a) A counsellor whose responsibilities include leadership of the Guidance Department rarely chooses to attend their District School Board's Guidance Heads' meetings. They claim that they keep abreast of developments just through reading the minutes and handouts.
- b) A counsellor attends the [OUGD](#) and [OCGD](#) fully paid for by their school and refuses to share the handbook with their colleagues.

### Additional Resources

[The Ontario College of Teachers](#) states that teacher learning, professional growth, and improving practice are of great importance in our profession as teachers and counsellors.

**02** Counsellors expect ethical behavior from their professional associates; counsellors will attempt to rectify unethical behavior on the part of their associates and will assist colleagues to observe ethical practices related to the work of the counsellor. Every district school board shall ensure that every teacher has a learning plan each year that includes the teacher's professional growth objectives, proposed action plan, and timelines for achieving those objectives. A teacher's learning plan must be prepared by the teacher in consultation with the appropriate Principal ([Education Act, Regulation, 98-02](#)).

### Acceptable Cases

- a) An inexperienced counsellor is in a quandary concerning the proper course of action to take after having a student admit to the commission of a crime. They approach a colleague who suggests a meeting with the Principal to help to clarify the ethical and legal implications of the situation.
- b) Every year, the Guidance Department incorporates into their department meetings a review of OSCA's Ethical Guidelines. The department's policies and procedures are discussed in relation to the ethical standards.
- c) On an evaluation survey completed by students, there is a significant degree of skepticism registered concerning the confidentiality honored by the school's counsellors. The Guidance Head holds a department meeting concerning this state of affairs and arranges to speak to the entire school staff to clarify policy.

- d) A counsellor, seated at a crowded staff room table during lunch, is confronted by a teacher who says: “I understand John Smith was at an interview with you during my class. What did they have to say?” The counsellor diplomatically informs the teacher that the staff room is not the suitable place to discuss this and invites the teacher to see them in their office in order to share any appropriate information, which is permissible, under the circumstances, to divulge. (Please see [Confidentiality](#))
- e) On becoming aware that a colleague is using a standardized test for which they lack the proper background, a counsellor suggests that they assist, since they have been formally trained in the administration and interpretation of the test in question.

#### Unacceptable Cases

- a) A counsellor, at a staff meeting, requests that staff members cooperate with counsellors in maintaining confidentiality. They had previously discussed the need for such action with the Guidance Head who had agreed that the need existed. The latter, however, does not support the counsellor at the staff meeting due to a fear of alienating some staff members.
- b) Mrs. C. is a half-time Guidance counsellor and halftime Mathematics teacher who has been assigned to the Guidance Department by the Principal. They have no Guidance qualifications. They are a popular staff member. The Guidance Head realizes that Mrs. C. spends a significant amount of “Guidance” time marking Mathematics tests. However, they say nothing, as they do not want to jeopardize losing Mrs. C. as a counsellor since they think they improve rapport between their department and the rest of the staff.

#### Ethically Speaking

In the event of a civil or criminal action against a counsellor, the Head of Guidance may be implicated if the latter may be proven to have been aware of an alleged impropriety and failed to take appropriate action.

According to Federation bylaws, a copy of any critical report must be forwarded to the teacher/counsellor whose behaviour is being criticized. A member rendering criticism is urged to contact the other member personally.

The only exception to this rule occurs in the unlikely event that a teacher must report professional misconduct of a colleague related to sexual abuse and/or sexual misconduct. (See [Student Protection Act, 2002, Appendix F](#))

If a student admits to having committed a crime, the wisest course of action seems to be to ensure that the student meets with a lawyer as soon as possible.

The question of whether or not to violate confidentiality is an agonizing one for counsellors who learn, during a counselling session, that their client has committed a criminal act. Such charges as being an “accessory after the fact” or “aiding and abetting” a criminal are possible, though unlikely, consequences of maintaining confidentiality. Generally, counsellors must base their decisions on the relative harm or benefit accruing to society versus that accruing to their clients. (See [Confidentiality](#))

## 03 **Counsellors shall not indicate that they have professional qualifications beyond those they possess, and should attempt to correct misrepresentation or misunderstanding of their qualifications by others.**

### Acceptable Cases

- a) The local newspaper misrepresents a counsellor's credentials. They therefore inform the editor of the mistake and request that a correction be printed.
- b) Whenever a counsellor is mistakenly labelled as a psychologist either by student or parents, they make a point of explaining their role so as to clarify the distinction.
- c) After divulging a sensitive, personal problem, a student asks the counsellor's advice concerning some legal implications. The counsellor assists the student in obtaining valid legal information.

### Unacceptable Cases

- a) A teacher, having completed Part 1 of the Guidance Additional Qualification course, leads their counsees in therapeutic sessions. Despite being impressed with their terminology, the counsees are confused and frightened by what they are telling them.
- b) A counsellor exaggerates their qualifications in assuring a student that they are sufficiently qualified to help with any social or emotional problem.
- c) A mother of a counselee contacts their daughter's Guidance counsellor in order to request family counselling. It is evident that the parent assumes that Guidance counsellors are trained to assist directly with serious family problems. Although the counsellor has had no training specifically in family counselling, they say nothing to dispel the assumption. They agree to counsel the family themselves, deciding not to refer the family to the appropriate District School Board social worker or community agency.

### *Ethically Speaking*

It is important that counsellors attempt to ensure that perceptions of clients are accurate with regard to their role and qualifications. The utilization of therapeutic techniques in which counsellors are not formally trained may be the basis of civil liability suits. Unless the District School Board has been made aware that unorthodox practices are in use, the counsellor would be jeopardizing the employment relationship.

## 04 **Counsellors, as employees of a school or other institution, accept policies and principles of the institution as a condition of employment (for example, the IPRC process), unless they conflict with the professional standards and ethics of the Ontario College of Teachers, the Ministry of Education and/or the various Teacher Federations.**

### Acceptable Cases

- a) Before accepting a Guidance position, a counsellor raises several key ethical concerns with the school's administration to determine whether school policy is in basic accord with their ethical responsibilities as a counsellor and teacher of Guidance and Career Education credit courses, e.g. procedure for reporting a suspected child abuse case. (See [Child and Family Services Amendment Act, Appendix A](#))
- b) A counsellor, new to a school, finds that scores from a recognized and reputable test administered individually, on occasion, by qualified counsellors have traditionally not been conveyed to students or parents. With the permission of their Guidance Head, they suggest to the Principal some reasons for this situation to be changed. Their views are approved and a procedure for the explanation of scores is developed.



- c) A Guidance counsellor accepts responsibility for leadership of a Guidance Department at a secondary school in which the counsellor-student ratio has been approximately 1:600 for a number of years. Convinced that such staffing does not conform to the funding formula as outlined by the Ministry of Education and is inappropriate for proper professional service, they contact OSCA for assistance in implementing a change. Since several schools in their jurisdiction are following the provincial funding ratio, efforts are focused on the staff and administration of the school. Gradually, the priority given the Guidance Department in terms of staffing improves.
- d) A counsellor who discovers that there is no written school Guidance Program Plan in existence, offers assistance to work with the Guidance Head, the Administration and other subject leaders to prepare one that meets the requirements of Ministry Guidelines.

#### Unacceptable Cases

- a) When criticism of school rules is expressed by students and parents, a counsellor frequently states that the Principal makes all the rules and that they are not in agreement with a number of them. In this way, the counsellor minimizes hostility directed at them.
- b) The Administration in a school has traditionally used Guidance counsellors for a great deal of assistance with disciplinary and administrative tasks. Counsellors complain among themselves, but fail to confront the Administration with their desire to fulfil the role as outlined in the [Creating Pathways to Success, An Education and Career/Life Planning Program for Ontario Schools: 2013](#).
- c) The Vice-Principal of a school often asks counsellors for information obtained in counselling sessions. On a number of occasions, they divulge information to parents in the interest of school/home cooperation. The counsellors continue to give the requested information in order to maintain cordial relations with the Vice-Principal.



#### Ethically Speaking

It is highly unlikely that a District School Board's policy would be illegal. However, the fashion in which a particular school Administration interprets the policy might conceivably, be inconsistent with an aspect of the legal system.

Counsellors should not cooperate with such policies. Obviously, such action would not lead to the counsellors' legal vulnerability.

05

**Counsellors shall offer professional services only through the context of a professional relationship. Except through the medium of a recognized agency, it would be unethical practice to offer the services of counselling or testing through the mail, newspaper or magazine or other remote means of communication such as telephone, radio, television or internet. (See [Cyber Ethics](#))**

#### Acceptable Cases

- a) A counsellor is offered time by a local radio station to counsel persons who phone in regarding school-related problems. The station makes it clear that the intent would be to offer more than the dispensing of information and that actual counselling, in the proper sense of the term, would be occurring. The counsellor explains the ethical implications of such a program and their resultant inability to accept the offer. They do however express a willingness to provide information and general guidance for callers regarding education, career development and community resources.
- b) A long-time friend of a counsellor asks them for advice regarding their son who does not attend the counsellor's school. The advice requested pertains to course selection as well as some specific assistance

with career planning. The counsellor provides some general information, but encourages their friend to discuss their questions with the counsellor at their son's school.

- c) A counsellor realizes that their office is arranged in such a way as to provide absolute privacy for clients. However, in light of sexual harassment and physical/sexual abuse charges increasingly occurring, they decide to protect themselves. They arrange with the principal to have glass installed in their office door, and rearrange the furniture so that they can be viewed at all times from outside the office while the client cannot be fully viewed from outside. (See [Professional Advisory: Professional Misconduct of Sexual Nature, Ontario College of Teachers](#))



#### Unacceptable Cases

- a) A Student Council group arranges for regular space in a newspaper to be allotted for responses by a counsellor to letters from students who are experiencing difficulties in school. The counsellor who is approached agrees to actually advise appropriate courses of action for individual students. Thus, the counsellor has agreed to use this context for individual counselling.
- b) In an effort to assist members of the community who might be intimidated by the school setting, a counsellor places an ad in the local paper offering the opportunity to complete an interest inventory and aptitude test through the mail. It is made clear that scoring and interpretation would be done by the counsellor and the results would be mailed to the person if that was their wish.

#### Ethically Speaking

Counsellors who choose to operate outside the bounds of a professional school relationship increase the possibility of their being found individually liable.

Those not functioning through the medium of a recognized agency and using remote means of communication are in a “double-jeopardy” situation. This is intended to mean that such a counsellor would be vulnerable, not only because of independent status with no support services, but also because of the non-immediate means of communication, which would tend to hinder effective communication.

The counsellor is not breaching any obligation of confidentiality by rearranging the office furniture so as to protect against unjustified accusations of sexual harassment/assault.

Doug Wilson, as Registrar of the College of Teachers in 2003, indicated that the [Professional Advisory: Professional Misconduct of Sexual Nature, Ontario College of Teachers](#), is intended for all members of the College of Teachers and was not intended to single out Guidance counsellors or to change the way they work with students. Counsellors often work with individual students, and discussions may well be of an emotional and confidential nature. Guidance counsellors need to be aware that the Advisory exists and should continue to exercise good judgement in working with individual students in such situations.

## 06 Counsellors with recognized competencies may establish career counselling / consultation practices outside school hours, but must not charge fees to students or parents from their own school.

#### Acceptable Cases

- a) A counsellor agrees to work evenings with a private career counselling service on a fee-for-service basis. As part of the agreement, the counsellor will not refer clients from their home school to the service and asks their colleagues to refrain from the same practice.
- b) Counsellors in a small rural community identify a need for additional family services. They lobby a reputable agency from a nearby community to establish a family counselling service that operates weeknights and weekends.

## Unacceptable Cases

- a) A student with severe personal difficulties is making increased demands on a counsellor's time. Since the counsellor needs time to see other students, and is teaching two Career Studies credit course sections, they suggest that the student see them in the evening at their private practice. They send the student a bill.
- b) A counsellor is invited to work with a government agency in the development of new career education resources. Meetings are usually held during school hours. After several weeks the counsellor is offered, and accepts, the opportunity to present workshops about these resources during school hours. They accept an hourly wage for each workshop.

## Ethically Speaking

The counsellor should ensure that there is no District School Board policy preventing the practice outside of school hours in relation to any pupil of the Board, regardless of the school attended. If none exists the counsellor may proceed accordingly. However, it would be unethical to charge fees to parents/students from the counsellor's home school.

# 07 Counsellors shall have a clear understanding of the Ministry of Education Curriculum and Policy Documents:

- ❖ [Creating Pathways to Success, An Education and Career/Life Planning Program for Ontario Schools: Policy and Program Requirements, Kindergarten to Grade 12, 2013.](#)
- ❖ [The Ontario Curriculum, Grades 9 and 10: Guidance and Career Education, 2006 \(revised\)](#)
- ❖ [The Ontario Curriculum, Career Studies Gr. 10, 2019 \(revised\)](#)
- ❖ [The Ontario Curriculum, Grades 11 and 12: Guidance and Career Education, 2006 \(revised\)](#)
- ❖ [Ontario Schools, Kindergarten to Grade 12: Policy and Program Requirements, 2016;](#)
- ❖ [Growing Success, Assessment, Evaluation and Reporting in Ontario Schools, 2010](#)
- ❖ [Ontario Student Record Guideline, 2000](#)
- ❖ [Ontario Student Transcript Manual, 2013](#)
- ❖ [Supporting Minds: An Educator's Guide to Promoting Students' Mental Health and Well-being, 2013](#)



## Acceptable Cases

- a) A Guidance Coordinator from a large District School Board makes special arrangements for all Guidance Counsellors within their Board to have in-service from an Education Officer at the Ministry of Education on Ontario Schools, Curriculum Documents for Guidance and Career Education and Creating Pathways to

Success, see above. Attendance at the rotating sessions is excellent. The Coordinator plans future sessions to support understanding and implementation and to determine how well the process of implementation is proceeding.

- b) A teacher assigned the responsibility for teaching sections of Career Studies feels overwhelmed by the task and approaches the Head of Guidance. The Head of Guidance encourages the teacher to continue online Additional Guidance Qualifications courses, and to join the Ontario School Counsellors' Association as part of the school membership. The Head of Guidance agrees, as well, to mentor the teacher, especially in the area of policy documents regarding program planning and assessment.
- c) A Head of Guidance is concerned about the lack of implementation of Creating Pathways to Success in their new school. They approach the Principal and together they make decisions to begin the process.

#### Unacceptable Case

The person in charge of Student Services of a small rural school chooses only those parts of the new Ministry documents that they think are worthwhile implementing. They are not worried since they feel that no one will notice.

#### Ethically Speaking

A Counsellor who does not have a clear understanding of the Ministry of Education Curriculum and Policy Documents risks exposing themselves to charges of incompetence.

The resulting employment repercussions may include a College of Teachers complaint, which may be filled by a District School Board, a parent or a student. In some cases, there may also be a potential civil liability.

## **08 Qualified Guidance counsellors provide leadership and assist in the process of delivery, coordination and implementation of the school's Education and Career/Life Planning Program.**

#### Acceptable Case

In an effort to begin the process of creating and implementing a Guidance Program Plan, the Head of Guidance meets with the Principal. Together they review the current Education and Career/Life Planning Program, Ministry Policy and School Board Documents to assist them in their task. At the end of several productive meetings, they agree to approach key stakeholders within their school community to help them proceed.

#### Unacceptable Case

The Head of Guidance of a large secondary school refuses to take part in the planning of the Guidance Program Plan suggesting that it is more important for them to be in the Guidance Office catching up on phone calls to parents. Besides, they believe that the plan is the sole responsibility of the Principal.

#### Ethically Speaking

A counsellor who fails to provide leadership and assist in the process of delivery, coordination and implementation of the school's Education and Career/Life Planning Program may be subject to allegations of incompetence. Again, as noted above, allegations of incompetence may have an employment impact and there is a potential risk of action by the Ontario College of Teachers.

## 09 Qualified Guidance counsellors provide instruction in Guidance and Career Education through the delivery of Guidance credit courses.

### Acceptable Cases

- a) The Head of Student Services in an urban school is concerned about whom the Principal will assign to teach the compulsory grade 10, Career Studies course. They make an appointment with the Principal to discuss the issue, and indicate that both they and their colleagues (all with Guidance qualifications) in the department wish to teach at least one section each. They lobby the Principal to assign qualified Guidance personnel from other departments who they have identified as interested in, and well suited for the teaching assignment.
- b) As teachers of Guidance and Career Education credit courses, members of a Guidance department set as a primary goal to help students become self-directed, lifelong learners, this in accordance with Ministry Policy and the fundamental aim of the guidance and career education curriculum.

### Unacceptable Case

A Head of Guidance fails to lobby for the inclusion of all Guidance Credit courses on course selection sheets presented to students in their school each year.

### *Ethically Speaking*

As noted previously, there is always a potential charge of incompetence when a member fails to follow the guidelines set out herein.

OSCA/ACOSO

## CONFIDENTIALITY

1. Counsellors shall inform students as early in the relationship as possible of any limits to the confidential nature of the information shared.
2. The reporting of child abuse and neglect will be done in compliance with each Board's established protocol and within the expectations of the [Child, Youth and Family Services Act](#) as well as those of [OCT](#).
3. Students who are at risk for imminent self-harm may need to have a mental health assessment and information may need to be shared without their consent.
4. A counsellor who possesses information about a student who poses a physical threat to another person may also need to act without the consent of the student.
5. The [Youth Criminal Justice Act](#) provides that no person shall publish any report of an offence or an alleged offense committed by a young person, which names or, in any way, identifies the young person charged, the victims or the witnesses to the alleged offense. The prohibition covers reports of both the actual offence and any hearing, adjudication, disposition, or appeal under the Act. The word "publish" should be interpreted broadly. While persons charged with this offence have, in the past, been in the field of journalism, it would be an offence for counsellors to divulge information relating to a charge to such persons as prospective employers. Under the Youth Criminal Justice Act, consent of the young person involved is irrelevant. One must simply not communicate information which names or in any way identifies the young person charged, the victims, or witnesses until a case is over, the youth is given an adult sentence and the parents' consent.
6. Counsellors appear to have the authority to authorize the transmission of confidential demographic data to the College and University application centers, long before students actually make the decision to submit an application, with the express understanding that once applications are submitted, the relevant data of all non-applicants will be deleted from the system(s).

In the introduction to the [Application Guide](#), the [Ontario University Application Centre](#) makes a clear statement regarding the use of data: "The student by making formal application is allowing the Application Centre and the Universities to access the demographic and academic information during the application year."

Counsellors are urged to follow their individual Board's protocols regarding this issue.

### Ethically Speaking

As noted, for students covered by the Youth Criminal Justice Act, it is an offence to publish by any means a report of an offence committed or alleged to have been committed by a young person, in which the name of the young person, victims or witnesses are disclosed. For students not covered by the Youth Criminal Justice Act, the potential legal consequences of a counsellor's failure to maintain confidentiality would be civil actions based on charges of libel or slander. Of course, disciplinary actions by District School Boards may be taken as well. Information conveyed by counselees during counselling may only attract a qualified privilege in any court of law. If counsellors are asked to testify about information, which they strongly feel should be kept confidential; they can appeal to the judge to do so. If the judge considers the information crucial, counsellors might ask for the courtroom to be cleared while testimony is given. The judge will weigh the importance of maintaining the integrity of the counselling relationship versus the requirement to properly protect society.

## COUNSELLOR-COUNSELEE RELATIONSHIP

# 01 **Counsellors are obliged to respect the integrity and promote the welfare of the counsees with whom they are working through the development and implementation of the Individual Pathways Plan.**

### Acceptable Cases

- a) A pamphlet is mailed to the Guidance Office inviting students to attend a Conference related to the prevention of Sexual Abuse. A covering letter requests that the event be advertised in the school. The organization is telephoned. An agenda is supplied as well as a detailed account of what role the students would play in the conference and what age group would benefit from the experience. References are provided by the conference planners. District School Board Social Work Services is notified. The conference is advertised to the students in the school.
- b) A counsellor learns that a counselee who is not doing well academically has serious home problems. The student's father is an alcoholic and money is scarce for the family. With the permission of the counselee, the counsellor makes a commitment to support the counselee in the school setting, to explain relevant aspects of the situation to their teachers and to put them in touch with relevant community service agencies.
- c) A student, new to the area, comes to register at a high school. Based on transcripts brought by the student, the counsellor considers another school's program to be more suitable. After explaining their rationale to the student and their parents and obtaining their consent, they arrange an appointment for the student, parents at the appropriate school, and ensures that the other school has the necessary preliminary information.
- d) Knowing that an Individual Pathways Plan will help students take responsibility for their education, a guidance counsellor encourages their counsees to consider all postsecondary destinations carefully. In the planning process, students set short and long-term goals, evaluate the achievement of those goals and review their academic progress.
- e) A Guidance Specialist has developed a series of lessons about the development and maintenance of the career portfolio. They are assisting the Program Advisory Team to integrate this approach to portfolios into the Guidance Program Plan.
- f) A counsellor has been working, for a period, with a student who has become very dependent on them. The counsellor believes the student has gained enough skills to function independently and takes steps to terminate the relationship humanely by referring the student to the appropriate social agency.

### Unacceptable Cases

- a) A young woman comes to a counsellor concerning a problem with their ex-boyfriend. To resolve the problem, the counsellor is convinced that the two should be brought together to discuss the matter. The girl does not agree. Despite their objections, the counsellor has the boy come to the office with the girl still present.
- b) A counsellor is assigned students taking applied courses as well as students taking mainly academic courses. They treat the former in a perfunctory manner, justifying their approach with the contention that their career possibilities are much more limited than those of students taking mainly academic courses.
- c) A counsellor perceives that a child's diet is inadequate and begins to take them home for lunch. The counsellor gradually assumes the role of a guardian thus blocking access to appropriate agencies in the community who could help the child.

## Ethically Speaking

There have been instances of counsellors losing positions or being transferred because of incidents with students occurring in the context of what had supposedly become personal, in some cases, romantic, relationships. As aspects of the counselling relationship vary from those normally associated with one, which is professional and proper, the counsellor increases the risk that the nature of the relationship will be perceived as personal rather than professional. Thus, the counsellor may well be considered to be breaching rather than respecting the student's integrity. (See Professional Advisory, Ontario College of Teachers, Appendix E.) The second half of this ethical principle – “promote the welfare of the counselees” – is fraught with legal implications. Civil actions based on charges of negligence or liability may stem from such allegations as improper placement of a student or incorrect information being conveyed by counsellors. Since there are no precedents of such actions in Ontario, it can only be stated that the possibilities exist. On the other hand, it should be stated that the success of such actions would be questionable indeed.

# 02

**In-group situations, particularly those oriented towards self-understanding or growth, the counsellor is obligated to make clear to the group members the purposes, goals that may affect the continuance of the relationship. The counsellor will attempt to protect individuals from physical and/or psychological trauma, which might result from group interaction.**

### Acceptable Cases

- a) The counsellor ensures that all the students in the group with which they are working are compatible in relation to the task. They have expressed a willingness to share with each other, and, in various ways, to assist each other to resolve difficulties.
- b) Some members want their group to try some dynamic and intensive techniques with which they and the counsellor are not very familiar. The counsellor, who is not qualified in any of these techniques, considers the exercises to be potentially dangerous and ensures that they are not used.
- c) In the initial stages, group members break certain rules that are extremely important in-group counselling, such as confidentiality. The counsellor repeats the rules and re-emphasizes their importance. Members come to realize that the effectiveness and continuation of the group depend upon their adherence to these basic rules.
- d) To prepare for peer helping training sessions, the counsellor explains the purposes and goals to everyone involved, and gives each student a printed summary of the program. (See [Leadership and Peer Support Programs](#))

### Unacceptable Cases

- a) The counsellor is working with a group on a special program for building self-esteem. Despite the counsellor's initial outline of guidelines and general procedures, one member of the group is very dominant and sets up their own procedure. The new process is contrary to the nature and purpose of the program. The counsellor is intimidated by the dominant member, fails to confront them and allows the group to continue.
- b) The counsellor initially fails to make clear to the group the importance of attending every session. The attendance of many members becomes irregular, which leads to repetition of material. Several members who attend regularly become dissatisfied and decide to leave the group. The group fails because of a key rule not being stressed and enforced.
- c) A counsellor is aware that a member of the group is relatively sensitive and insecure. They do not intervene when other group members focus criticism and some hostility on the member. The individual becomes silent in the group and appears to lose confidence in themselves. The counsellor tries to counsel them individually following the session, but the student is unwilling to discuss the situation.



## Ethically Speaking

In the event of a student being harmed in-group counselling, the potential consequence could be a negligence suit launched by the parent, or the student if they are over 18. Obviously, proper training in group counselling would minimize both the potential for negative outcomes as well as legal actions resulting from such outcomes. It is important that counsellors ensure that their principals or school boards know about and approve of their group counselling programs. Counsellors should discuss with group members their responsibility for maintaining the confidentiality of information disclosed in the group. Counsellors must be aware that they cannot be held accountable if group participants breach their confidentiality obligations.

**03** In providing orientation to prospective group participants, especially when the emphasis is on self-understanding and growth through self-disclosure, the counsellor is responsible for ensuring that the purposes of the group situation are appropriate to the needs of the counselee(s).

### Acceptable Cases

- a) In order to ensure that a group-counselling program is suitable for the participants, the counsellor responsible interviews prospective participants to determine their suitability for the program.
- b) A counsellor, realizing that a prospective group-counselling participant has ulterior motives for being in the group, speaks to the student concerning the need to exclude them from the group.
- c) A counsellor working with a new group gives each participant a printed outline of the aims of the group program. They proceed to discuss the validity of the aims in conjunction with their needs.
- d) Perceiving a need for group counselling, a counsellor arranges for interested students to meet. They then ask the group about specific needs in this area of concern. Together, they plan the objectives and the format of the group sessions.

### Unacceptable Cases

- a) A senior student, working as a volunteer with a group of Grade 10 students experiencing academic difficulties, wants to encourage self-disclosure of a personal nature in their group. Based on the senior student's judgment, the counsellor approves, even though the students involved were not selected with this new aspect of the program in mind.
- b) In starting a new group-counselling program to assist students finding it difficult to express themselves in class, the counsellor does not explain the emphasis, which will be placed on self-disclosure during the program. Participants were obtained by seeking referrals from teachers. Orientation consists primarily of claiming that participation will help to increase students' marks.

## Ethically Speaking

In ensuring that group situations are appropriate to the needs of the counselee(s), the counsellor should be aware of potential allegations of incompetence. As noted previously, there is an employment impact as well as the possibility of charges from the College of Teachers. In addition, there may be a possibility of civil litigation exposure, especially if one of the students or the group suffers damage.

# 04

**When counsellors become aware of information which indicates that there is imminent physical and/or emotional danger to the counselee or others, they must report the fact to the appropriate authorities. Counsellors must be familiar with the [Child and Family Services Act](#), and must continue to report subsequent information should it become apparent. The counselee should be informed of the obligation by the counsellor to report, as soon as possible, and preferably before any disclosure takes place. (See [Confidentiality](#))**

## Acceptable Cases

- a) An 18 year-old student who lives alone, tells their counsellor that they have had occasional, intense, suicidal urges. After discussion, the counsellor is convinced that there is a definite danger that the student will harm themselves. They persuade the student to seek help from the Crisis Centre of the city's hospital since they trust the capability of their personnel with problems of this type. They arrange an immediate appointment for the student and follow up to ensure that the appointment is kept.
- b) A 15 year-old foreign exchange student reveals to a counsellor that the man who is their "host" in Canada has inappropriately touched them. The student is in Canada alone, and has no friends or family to turn to. The student does not want the police involved but the Guidance counsellor explains that there is no legal alternative but to report the incident to the police and to the Children's Aid Society. The counsellor makes the calls immediately, following the law and their District School Board's protocol for such reporting.
- c) A student enters the counsellor's office and begins to talk in such a fashion that it is obvious they are out of touch with reality. The counsellor keeps the student calm and, as soon as possible, contacts the parents. Upon the parents' arrival, the counsellor explains the situation fully and outlines some of the appropriate community resources available to help.

## Unacceptable Cases

- a) Several teachers express concern to an elementary counsellor regarding an 11 year-old student's bizarre behaviour and preoccupation with death. The counsellor sees the student in order to investigate the concern. Although they are convinced that there is substance to the suspicions that the student requires psychiatric help, they leave the decision regarding future counselling to the student. Neither the parents nor the administration is notified.
- b) During a counselling session, a boy threatens to attack the Vice-Principal. Although there has been a history of such outbursts in the boy's background, in accordance with the student's wishes, the counsellor tells no one.
- c) A counsellor notices bruises on the arms of a 14-year-old boy. The boy says that their father beat them the previous night. The counsellor reports this to the principal and the principal refuses to take appropriate action. The counsellor does not personally report the matter to Family and Children Services. (See [Child and Family Services Amendment Act](#).)

## Ethically Speaking

In terms of physical or emotional danger for a child under 16, the legislation is clear. Counsellors must inform their local Family and Children's Services, or its equivalent, immediately. Many Boards have also established their own "in-house" procedures regarding such referrals. The Board policy may have as the first step reporting to the principal. However, counsellors should be aware that legally there is a personal obligation to report the matter and counsellors should not simply rely on the principal to report. For further discussion on matters related to this area of concern, please see the summary of the Child and Family Services Amendment Act, Appendix A. What should counsellors do when confronted with students confessing suicidal or homicidal urges? Counsellors may face personal liability and/or negligence suits if they do nothing to attempt to prevent the suicide or homicide

after becoming aware of the intent. Obviously, reasonable counsellors would take preventive action although the nature of such action would vary depending on the circumstances. For the counsellors' own protection, however, records of the counsellors' actions should be kept. (See [Confidentiality](#))

## **05** Counsellors take into account and show prudential regard for the social codes and moral expectations of the communities within which they work and the ethnocultural communities represented within that community.

### Acceptable Cases

- a) At the beginning of their first year at a school, a counsellor makes a point of becoming well acquainted with the community in which the school is located. They contact people in the key community agencies, tour the area served by the school and ask school personnel about various facets of the school community.
- b) A counsellor offers a small-group program in enhancing career awareness for girls. Since the school is part of a multicultural community, the counsellor invites parents to the school so that they might explain the program. The counsellor requests that the girls be assigned to their section of the alphabet so that they may continue to assist with their "All About Me" portfolio or Individual Pathways Plans.
- c) During a Program Advisory Team Meeting, when the group is looking at Creating Pathways to Success school wide planning, the guidance counsellor provides a list of the dates of major faith holidays of residents in their school community. The counsellor requests that as they develop their school-wide plans, the Team values the school community faith diversity and asks that conferences, meetings, workshops, other professional events, co-curricular activities, and exams/tests not be scheduled on these dates.

### Unacceptable Case

- a) A student approaches their counsellor for assistance with a disagreement they are having with their family. The counsellor introduces some possible courses of action for the student, which, they know, conflict with the social standards with which the student has grown up. The counsellor, who interprets their role in this situation as an "information-giver," fails to assist with the emotional turmoil, which results as the student debates alternatives with their parents.
- b) A counsellor works in a school with a minority of Indigenous students. The counsellor receives an email notice regarding a scholarship opportunity for Indigenous students. Because the scholarship information sessions have already passed, and there are not many Indigenous students in the school, they do not advertise these scholarships.

### *Ethically Speaking*

The chances of being sued for professional behavior, which is inconsistent with the community standards, is unlikely. However, if the behavior is so extreme such that the community is unlikely to place trust in the counsellor, then the District School Board could attempt to sever the employment relationship for just cause.

# 06

Records of the counselling relationship including notes, assessment data, correspondence and other documents must comply with the regulations outlined in the current [Ontario Student Record Guideline](#) and the [Freedom of Information and Protection of Privacy Act](#), as well as any procedures or policies developed by a specific District School Board to interpret and detail the compliance protocol of these Acts. Even when proper consent has been given, the counsellor shall use professional discretion in complying with the request for the release of such information.

## Acceptable Cases

- a) A counsellor at a District School Board Career Assessment Centre provides an 18-year-old student with a report interpreting the assessment battery that the student has taken. They have the student sign a Statement of Informed Consent before sending a copy of the report to the student's school Guidance Counsellor and Special Education teacher.
- b) A student asks to see their Ontario Student Record (OSR). The counsellor arranges time so that they can examine it together. This enables the counsellor to interpret test data and explain other records.
- c) A counselee's sister asks the counsellor to see their brother's OSR, which contains a report from the District School Board's Special Education Services. The counsellor explains that only the counselee or their parents/guardians may see the OSR since they are under 18, unless the school receives a signed Statement of Informed Consent from the counselee's parents allowing them this access.

## Unacceptable Cases

- a) A student, who has been receiving frequent personal counselling, asks to see their OSR. Before allowing the student access, the counsellor removes their notes about the interviews. After the student leaves, the counsellor takes the notes out of their desk drawer and puts them back in the OSR.
- b) In order to comfort a student whose standardized test scores are low, the counsellor identifies by name several other students with similar or lower scores.
- c) A counsellor keeps detailed notes in the OSR about a student's personal difficulties including information about sexual improprieties, drug abuse and petty theft.

## Ethically Speaking

Records of counselling relationships normally compose part of a student's Ontario Student Records and, therefore, their proper use is subject to The Education Act (Section 266) and the Ontario Student Record Guidelines. Alleged misuse of records by counsellors, consequently, could be a basis for disciplinary action by District School Boards, as well as the basis for civil actions probably claiming defamation.

# 07

**Counsellors are obligated to respect the confidentiality of information gained in the counselling relationship. Counsees should be informed at or before the time counselling begins, of conditions imposed by school, District School Board, or Ministry policy under which the counsellor cannot maintain confidentiality. In a group counselling setting, the counsellor is expected to set a norm of confidentiality regarding all group participants' disclosure. (See [Confidentiality](#))**

## Acceptable Cases

- a) A teacher asks the counsellor about a student whom the latter has been counselling recently. Since the nature of the student's problem does not involve the teacher, the counsellor explains the importance of maintaining confidentiality. They assure the teacher that, with the student's consent, they would certainly communicate any concern related to the teacher or their course.

- b) A student, experiencing problems with a teacher, comes to a counsellor for help. The student asks that their comments about the teacher be kept confidential. The counsellor, with the student's permission, approaches the teacher to arrange for the three to meet. Two sessions take place, but details of the initial session remain confidential.
- c) A Guidance Office Assistant competent in all other respects, tends to "gossip" with other secretaries and staff members concerning students who are being counselled. Upon learning of this, the person responsible for leadership of the Guidance Department speaks privately to their Guidance office assistant with regard to the importance, ethically and legally, of maintaining confidentiality.

#### Unacceptable Cases

- a) A student approaches their counsellor for help with a disagreement they are having with their parents. Their mother phones the next day and demands to know what their child divulged. Although they had assured the girl that they would keep their comments confidential, the counsellor thinks that the mother might benefit from knowing. They, therefore, explains fully what was said, without the permission of the student.
- b) In the staff room, a counsellor regales the staff members present with anecdotes related by a student during counselling.
- c) In a group counselling session, the counsellor tells the group about the experience of a student in one of their previous group counselling programs. In so doing, the identity of the student is revealed.

#### Ethically Speaking

First, it must be asserted that for students covered by the [Youth Criminal Justice Act](#), it is an offence to publish, by any means, a report of an offence committed or alleged to have been committed by a young person, in which the name of the young person is disclosed. Until the case is over, the youth is given an adult sentence and parents' consent. The victims and/ or witnesses to the alleged offense may similarly not have their identities revealed. The potential legal consequences of a counsellors' failure to maintain confidentiality for any student would be civil actions based on charges of libel or slander. Of course, disciplinary actions by District School Boards may be taken as well. Information conveyed by counselees during counselling may only attract a qualified privilege in any court of law. If counsellors are asked to testify about information, which they feel strongly, should be kept confidential, they can appeal to the judge to do so. If the judge considers the information crucial, counsellors might ask for the courtroom to be cleared while the testimony is given. The judge will weigh the importance of maintaining the integrity of the counselling relationship versus the requirement to properly protect society.

## 08

**Counsellors, where they feel that it would be in the best interest of the counselee to do so, will relate confidential information to parents, guardians, teachers, or school administrators only with the knowledge and consent of the counselee, e.g., at school Case Conferences or School Support Team meetings. (See [Confidentiality](#))**

#### Acceptable Cases

- a) A 15 year-old counselee confides to their counsellor that they are pregnant. The counsellor immediately works with the student to obtain medical advice. They provide the necessary support for the girl to inform their parents of the pregnancy.
- b) A 12 year-old student plans to run away from home and confesses this to their counsellor. They help the student carefully examine their reasons for wanting to leave home. In so doing, they become convinced that the relationship between the boy and their parents is healthy and that the problem can be resolved by having them discuss the situation. They advise the student that they are confident their parents will understand. After gaining the boy's consent, the counsellor contacts the parents and arranges a meeting.

- c) A parent phones to request that the counsellor see their son since something seems to be bothering them. They ask that their request be kept confidential and that the counsellor phone them following the session to report results. The counsellor agrees to see the student but fully explains that they would tell the student why they are being seen and that no report could be made without the student's knowledge. The counsellor offers to see the parent and son together following the initial appointment, if it seems warranted and with the son's consent.

#### Unacceptable Cases

- a) A student has approached their counsellor concerning a disagreement with a teacher. Although the student has asked that their concerns be kept confidential, the counsellor tells the teacher, who is a personal friend.
- b) A student is being bullied by other students and consults their counsellor for assistance. They assure the student that they will help eliminate the problem although they do not indicate how they plan to do so. Without informing their Vice-Principal, the counsellor calls the offending students to their office. Harassment increases off school grounds. The student does not return to the counsellor.

#### Ethically Speaking

Legal actions based on counsellors' nonconformity with this ethical principle are unlikely. Any such actions would probably be based on charges of libel or slander. Counsellors who are employed by District School Boards are subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act. Counsellors, when reporting research results and supporting data, will not reveal the identity of the persons used as subjects without their express written permission.

## **09** Counsellors, when reporting research results and supporting data, will not reveal the identity of the persons used as subjects without their express written permission.

#### Acceptable Cases

- a) A graduate student working on their PhD thesis approaches a counsellor to obtain information on teenage pregnancies. They have gained the approval of the District School Board and the school Principal to contact school personnel. The counsellor gives the information requested, but does so in a manner, which safeguards the anonymity of the girls involved.
- b) An elementary school counsellor has been working with a group of exceptionally intelligent students. The School Council asks for an individualized report of the program's effectiveness. The counsellor explains that the nature of the report must protect the identity of the individuals involved, but agrees to report on the program with that provision.
- c) Knowing that their group-counselling program with underachievers will be evaluated at the end of the school year, the counsellor prepares a printed explanation of the information to be released. They consult with parents and students to ensure that they have written permission to use information concerning individuals in the group.

#### Unacceptable Cases

- a) A secondary school counsellor is asked to report to the staff concerning the progress of graduates. In the cases of those who proceeded to post-secondary education, the information is based on reports from the Colleges of Applied Arts and Technology and Universities. In an effort to make the report more interesting, the students are identified by name. Subsequent to the presentation, the students' first-year results are posted in the staff room.

- b) For a workshop concerning psychological testing, the counsellor, who is presenting, takes copies of some students' actual test data. Since the workshop is in an area of the city quite distant from their school, they do not bother to take the precaution of removing the students' names from the copies.

### Ethically Speaking

Aside from the provisions of the [Education Act](#), restricting access to personal information, the provisions of the [Municipal Freedom of Information and Protection of Privacy Act](#) would clearly only permit disclosure where the student's identity cannot be traced.

**10** **Counsellors, when they receive requests for information about counselees, shall follow the Access to the OSR provisions as outlined in the current Ontario Student Record Guideline. Even when proper consent has been given, the counsellor shall use professional discretion in complying with the request.**

### Acceptable Cases

- a) An employer phones a counsellor to request data from the Ontario Student Record of a past student who is being considered for a full time job. The employer reports that they have a signed "release form" which will be forwarded, but a decision must be made on the same day. The counsellor arranges for the release form to be faxed or couriered to them that day. The counsellor phones the ex-student who confirms that information may be given.
- b) A counsellor receives a phone call from an individual who claims to be a parent of a student at the school. They ask for information regarding the student's attendance and marks. The counsellor explains that the information cannot be divulged over the phone and asks for a written request.

### Unacceptable Cases

- a) A probation officer is preparing a pre-sentence report concerning a student. They contact the school to inquire about the student's performance and deportment. The counsellor conveys the requested information including information gained during counselling sessions. The presentence report is very critical of the student and leads to a relatively severe sentence. The Guidance Department is cited as a source of information although neither the parents nor the student approved any release of information.
- b) A release of information form is received from a student's prospective employer. A WISC profile sheet, contained in the OSR, is photocopied with other requested material and sent to the employer with no interpretive information. The student is unaware that such information is in the OSR and the employer is not qualified to intelligently interpret the WISC data.

### Ethically Speaking

Part X, Section 266 of [The Education Act](#), states that students' records are privileged and are available only to supervisory officers, the principals and teachers of the school for the improvement and instruction of the student. The records are not available to other parties without written permission of the parent or guardian of the pupil, or, where the pupil is an adult, the written permission of the pupil. Consequently, lack of conformity to these instructions would be grounds for action by District School Boards against counsellors. In addition, civil actions might be launched based on liability or negligence in cases involving unauthorized dispensing of information. The police must have a search warrant or "release form" in order to obtain information from students' records. The Royal Canadian Mounted Police should have a Writ of Assistance, search warrant, or an authorized release form to obtain information. Counsellors working for or on behalf of institutions covered by Freedom of Information and Protection of Privacy legislation must follow the personal privacy provisions of that legislation. All items in this information section must be interpreted within that legislation.

# 11

**Audio or video recording of interviews require consent. A written explanation of the purpose of the audio or video recording and the way it will be used should be presented to the counselee. Students under the age of eighteen require the consent of their parents. Recordings must be returned to the student/parent or the information erased after the purpose has been accomplished.**

## Acceptable Case

A counsellor asks an 18-year-old student's permission to record their counselling session. They inform the student for what purpose it will be used and that the recording will be treated confidentially. The student gives their consent. The counsellor shares the recording with other counsellors in a training session, ensuring that the identity of the student is kept confidential. They erase the recording following this group training session.

## Unacceptable Cases

- a) A counsellor recording a career counselling classroom session, in which a new career education resource is being piloted. The recording is subsequently used as a promotional tool to market the resource. The counsellor does not obtain signed Statements of Informed Consent from each of the students in the class.
- b) A student enters their counsellor's office displaying signs of intense emotion. The counsellor wants to record the counselling session, but does not want to divert the student's attention with the request and the necessary explanation. They record the session for use during their counselling practicum, but do not first obtain student consent.

## Ethically Speaking

The definition of a "record" in the Municipal Freedom of Information and Protection of Privacy Act clearly includes an audio or videotape. Thus, all of the rules concerning access and disclosure apply. It is important for counsellors to be aware that others outside the school community could obtain access to the audio/videotapes.

**Counsellors, upon reaching their own limitation in a counselling relationship, should:**

# 12

- **seek consultation from other professional persons, or**
- **refer the counselee to an appropriate school board staff, community agency, or private practitioner for assistance and counselling, or**
- **terminate the counselling relationship, with appropriate explanation to the counselee.**

## Acceptable Cases

- a) Upon reaching what they consider to be their professional limitation in working with a student who simply is not achieving satisfactorily, the counsellor contacts the boy's parents. They recommend the boy be referred to an appropriate District School Board support service worker for assessment and remediation.
- b) A counsellor begins to counsel a student regarding the improvement of study habits. It soon becomes apparent that extremely serious family problems exist. The counsellor informs the student about Family and Children's Services and agrees, having consent of the student, to see the parents in order to expedite a referral.
- c) A counsellor recognizes a severe personality conflict between themselves and a student. They arrange for another counsellor to take responsibility for the client, explaining the reasons to the client.
- d) After a considerable number of counselling sessions during which little progress is made, the counsellor recommends that they refer the student to the District School Board psychologist or to the school's Social



Worker. The student refuses to cooperate with either proposal. The counsellor explains that, in their judgment, therefore, their counselling relationship must be terminated.

#### Unacceptable Cases

- a) After a number of interviews, a secondary school counsellor has failed to help a student progress toward their stated goals. However, they do not consult with their colleagues regarding the problem. They do not recommend that the student work with a different counsellor.
- b) A counsellor works with a student for months concerning the student's bouts of depression. No noticeable improvement is evident. They recommend that the student see a psychologist and offer to arrange a referral. The counselee insists on continuing the counselling. The counsellor agrees to do so against their better judgment.
- c) A counsellor refers a student to a psychiatrist. The counsellor agrees to the student's request that they continue counselling sessions on a regular basis although the psychiatrist is attempting to help with the same problem. They do this without consulting the psychiatrist.

#### Ethically Speaking

A realistic sense of what constitutes limitations is important for legal as well as ethical reasons. A large number of what Americans refer to as malpractice suits have been based on clients and/or parents in the United States accusing counsellors of venturing beyond their expertise and their mandate. In Ontario, counsellors accused of operating beyond reasonable limits could be sued for negligence. As in any suit of this type, of course, the counsellor is not the sole party being sued. The District School Board is usually included. While the Board will have legal representation, it is wise for counsellors to employ lawyers to look after the counsellor's personal interests.

#### **To avoid vulnerability relating to this ethical principle, the following suggestions are offered:**

1. Counsellors should be honest with themselves regarding their professional limitations, taking into account their training, their legislative mandate identified in the Education Act, and by Ministry Policy Documents.
2. Counsellors should not hesitate to consult with other professionals and to refer students when they deem it appropriate.
3. Especially in referring or terminating counselling relationships, counsellors should ensure that documentation of their actions exists. Such documentation might consist of letters of referral, or agreements signed by students and/or their parents. The point is that it is advisable to maintain records of actions, which might be questioned or misinterpreted subsequent to the event.

## MENTAL HEALTH

Mental health problems can seriously impair children’s ability to be successful at school and in their relationships with their peers. Mental health issues can include, but are not limited to, anxiety, depression, mood disorders, attention and hyperactivity/impulsivity problems, behavior problems, eating and weight-related problems, substance use problems, gambling, self-harm and suicidal thoughts.

In June 2011, the Ontario government released the document [Open Minds, Healthy Minds: Ontario’s Comprehensive Mental Health and Addictions Strategy](#), which outlined a comprehensive strategy for addressing mental health and addiction problems. The document [Supporting Minds An Educator’s Guide to Promoting Students’ Mental Health and Well-being, 2013](#), expands on this original document by providing educators with authentic approaches to support students.



Because schools and school boards play an important role in promoting awareness, prevention, and early intervention, and in connecting students to community services, the strategy explicitly recognizes the need to build school-based capacity in this area. The Guidance Department is often one of the places that students turn to for support. While counsellors cannot and should not attempt to diagnose mental health problems, they have an important role in:

- Promoting positive mental health at school;
- Identifying students who may have mental health problems; and
- Connecting those students with appropriate services.

Issues of privacy and access to personal information are paramount in matters concerning the mental health of students. School boards and Provincial Schools in Ontario operate within a legal environment in which various pieces of legislation govern decision making about access and privacy, including:

- [Freedom of Information and Protection of Privacy Act \(FIPPA\)](#),
- [Municipal Freedom of Information and Protection of Privacy Act \(MFIPPA\)](#),
- [Personal Health Information Protection Act \(PHIPA\)](#),
- [Education Act](#).

School counsellors in Ontario must also keep in mind the Professional Advisory - [Supporting Students’ Mental Health 2018](#).



Boards and Provincial Schools have policies and procedures in place that are informed by access and privacy legislation.

The following publications provide information about access and privacy legislation in the context of education:

- Information and Privacy Commissioner of Ontario, [A Guide to Ontario Legislation Covering the Release of Students’ Personal Information](#) (2011),
- Information and Privacy Commissioner of Ontario and Office of the Information and Privacy Commissioner for British Columbia, [Practice Tool for Exercising Discretion: Emergency Disclosure of Personal Information by Universities, Colleges and Other Educational Institutions](#) (2008).
- Engagement Paper, [‘Promoting Well-Being in Ontario’s Education System’](#). Refer to chart on p. 3, Figure 1 (Nov. 3, 2016)



## Acceptable Cases

- a) “A student exhibits symptoms of anxiety and exaggerates the consequences of doing poorly on tests and may think that even one bad mark will mean that they could fail the year”, [Supporting Minds, 2013](#), pg. 34. The counsellor discusses strategies for approaching the upcoming test including taking deep breaths, discussing the material with a friend to increase sense of preparedness and identifying the easiest questions to start with. The counsellor engages in dialogue with parents and the school team to determine if the student would benefit from different arrangements for taking tests.
- b) A student returns to school after a suicide attempt. The counsellor works with the parents, the school team, and appropriate mental health professionals to determine who best to support the student and contributes to creating a school safety plan for the student, [Supporting Minds, 2013](#), pg. 132.
- c) A board-created ‘Sharing of Information Release Form’ is signed by parents, the student (according to age), mental health professionals and the school, giving permissions for information to be shared between the school and outside professionals.

## Unacceptable Cases

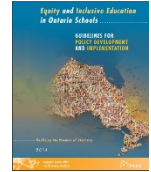
- a) A counsellor receives a phone call from a hospital where a student is receiving day-treatment. The medical practitioner is inquiring about circumstances at school, which may have affected the student’s condition. The counsellor speaks about a particular incident in which the student was involved.
- b) A student discloses to the counsellor that they have been diagnosed with depression by a doctor. This student would like to meet regularly with the counsellor to discuss how they are feeling rather than with a psychologist. The counsellor books weekly 30 minute sessions with the student.
- c) A counselling agency contacts a school counsellor asking for information regarding a student who wants to transition back to school. The therapist offers to accompany the student to the school to aid in the transition and wants to know the issues at school, which caused the student’s anxiety. The counsellor discusses the case with the therapist and books a time for the therapist to bring the student back to school.

OSCA/ACOSO

## DIVERSITY

School counsellors play a role in students' well-being. They must serve all students at their school in an equal capacity. Obviously, they must also take the necessary measures to ensure that students' varied needs are met. Contributing to the creation of an open and welcoming environment for all is one of the recommended measures.

Please refer to [Policy/Program Memorandum No. 119 “Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools”](#) (2013), [“Equity and Inclusive Education in Ontario Schools: Guidelines for Policy Development and Implementation”](#) (2014), and the [“Accepting Schools Act”](#) which is a 2012 amendment to the Education Act. These documents specify that publicly funded school boards must develop equity and inclusive education policies.



School counsellors must be familiar with these policies. We are reminded “Equity and inclusive education aims to understand, identify, address, and eliminate the biases, barriers, and power dynamics that limit students’ prospects for learning, growing, and fully contributing to society. Barriers may be related to sex, sexual orientation, gender identity, gender expression, race, ethnic origin, religion, socioeconomic background, physical or mental ability, or other factors. [...] These barriers and biases, whether overt or subtle, intentional or unintentional, need to be identified and addressed.” [“Equity and Inclusive Education in Ontario Schools: Guidelines for Policy Development and Implementation”](#) (2014), p. 6.

### Sexual Diversity: LGBTQI2S+

Sexual diversity includes sexual orientation and sexual identity. The commonly used acronym, LGBT2SQ+, stands for: lesbian, gay, bisexual, transgender, queer or questioning, intersex, two-spirit and other. Depression and suicide rates, higher for LGBTQI2S+ and questioning youth, show the need to create a safe environment. “LGB youth have been shown in a Canadian study to demonstrate a risk for suicide that is 14 times higher than for their straight peers (Benigbui, 2011). A large, statistically representative study of Trans people in Ontario found that over 60% had symptoms of depression, 77% had seriously considered suicide, and 45% had attempted suicide (Bauer 2010).” ([Rainbow Health Ontario](#))

Students who are questioning their sexuality, and thus often live with internalized stress, must know they can discuss these issues safely. School counsellors can be allies, offering a safe haven, sensitive and attentive listening, advice, resources and, when needed, a referral to appropriate resources such as a social worker. To do this, they must reflect on their speech and their practices, as well as continue their professional development to ensure prejudice is neither conveyed nor tolerated.

Public service providers, including those in education, must adhere to the [Ontario Human Rights Code](#) in serving transgender or gender diverse people who are “one of the most disadvantaged groups in society. Trans people routinely experience discrimination, harassment and even violence because their gender identity or gender expression is different from their birth-assigned sex.” [Policy on preventing discrimination because of gender identity and gender expression](#), Summary. School counsellors must be familiar with, and put into practice, their school board’s policies around transgender students including preferred names, pronouns, confidentiality, parental contact, school uniforms, as well as the right to privacy in change rooms, showers, accessible washrooms and overnight accommodations. The School Duty to Accommodate can be found under [Section 8](#) of the OHRC.

Comprehensive information regarding LGBTQI2S+ youth and helpful supports for both mental and physical health concerns can be found through the [Canadian Mental Health Association](#).

A guide to sexual diversity definitions can be found in the [Glossary](#) at [Rainbow Health Ontario](#).

Under the Human Rights Code, the following directives regarding sexually diverse student's requests for accommodation bind school counsellors:

- "Accepting requests for accommodation in good faith (unless there is evidence the request is not genuine)
- Making reasonable requests for only information that is necessary to clarify the nature and extent of the accommodation needed for the situation
- Making sure that information related to accommodation is kept confidential and shared only with people who need the information for their role in implementing the accommodation
- Acting in a timely way and taking an active role in looking for solutions
- Covering any appropriate costs related to the accommodation.

Keeping information about someone's Trans identity private and confidential is critical because of the stigma and stereotypes that Trans people often face." <http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression/8-duty-accommodate>

"It is unacceptable to choose to remain unaware, ignore or fail to address potential or actual human rights violations, whether or not a complaint is made."

<http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression/12-corporate-liability>

Counsellors should be aware of the specific transgender accommodation policies in place in their school board and be able to access the appropriate forms should the need arise.

#### Additional Resources

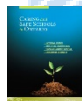
[Caring and Safe Schools Policy P051](#)

[Ensuring Equity in Ontario's Education System 2017](#)

[Achieving Excellence: A Renewed Vision for Education in Ontario, 2014](#)

[Egale Canada Human Rights Trust](#)

[OK2BME](#)



#### Acceptable Cases

- a) A student, who has come out as gay, tells their school counsellor that they do not feel "at home" at school. Questioning the student, the counsellor learns that certain students make homophobic jokes when they pass them at their locker. The counsellor continues to speak to the student to verify and gauge the impact of the comments heard. The counsellor talks about bullying, shares advice and resources with the student, explains to the student that they would like to share the homophobic remarks with the school's administration, asks them if they have talked to their parents about the situation, and follows up with them. They also talk with colleagues about updating or offering workshops on accepting sexual diversity at the school.
- b) A school counsellor is talking with a student who says they are questioning their sexual orientation. The counsellor, who recognizes that they are not the most skilled in dealing with that subject, listens with empathy, then asks permission to discuss the matter with a colleague. They introduce the colleague to the student, explaining that teamwork allows students to benefit from the advice of a complementary team. After the meeting, the counsellor realizes that they must pursue professional development in that area and registers for a workshop on sexual diversity. They make sure to cross paths again with the student in various contexts, with welcoming verbal and body language.

- c) A student shows up at Student Services to get backing for their project of creating a “diversity” club at the school. The counsellor lets them know about the process for creating a committee, gives them links to appropriate electronic resources and offers them support, either as a teacher responsible for a club or committee, or to help them find another teacher for that role. They also take the time to discuss the student’s motivation in the matter, to see if the request shows a need for consultation or gaps in the school’s social climate, and takes any steps necessary. They let the administration know about the request to start a new committee.
- d) A student and their parents tell the school counsellor that the student is transgender, but that they want the information to remain confidential. The counsellor reacts with openness, does not ask irrelevant questions, offers their support to the family, asks if a healthcare professional is providing support to the family, asks permission to let the administration know and makes the student aware of the all-gender washroom locations in the school. The counsellor follows up with the student on a regular basis.

#### Unacceptable Cases

- a) A school counsellor is talking with a student who admits to questioning their sexual orientation. The counsellor, obviously uncomfortable, tells them that all young people wonder about that, that it does not mean anything, and then changes topics. They do not follow up with the student on the subject because they are unwilling to admit their discomfort to their colleagues.
- b) A school counsellor asks students to share their sexual orientation during a workshop on sexual diversity.
- c) An openly transgender student advises their school counsellor that a staff member in the main office refuses to address the student by their preferred name and pronoun. The counsellor says, “Oh, it just takes some people time to adjust that’s all. Don’t take it personally.” The counsellor does not follow up with the main office staff.
- d) A student is making a name change to their preferred name. The student brings the signed form back to the counsellor’s office. Since the counsellor is busy, they tell the student to take the form to the main office without accompanying them or calling the office to let them know the student’s situation.

OSCA/ACOSO

## CYBER ETHICS

The field of cyber counselling is a new and evolving field. It is the next step beyond telephone (crisis-line) counselling that has been in existence for over three decades. There are a number of vehicles for cyber counselling: email, webcam, live chats and video conferencing. Student norms such as texting, messaging, and social media platforms must be carefully considered by the school counsellor in review of direction given by their board, school policies and local unit recommendations.

Please refer to the [Ontario College of Teacher's Professional Advisory - Use of Electronic Communication and Social Media \(2017\)](#) which states "Maintaining professional boundaries in all forms of communication, technology-related or not, is vital to maintaining the public trust and appropriate professional relationships. However, when more informal communication channels are used with students and parents, professional boundaries can begin to blur. This advisory will help you to use your professional judgment to identify and avoid potential risks."



### E-Learning and blended learning models

Online courses have become commonplace in secondary, post-secondary education and professional development. In the past, schools (and school counsellors) could be custodial about course access. With many improvements to the online environment, students and parents have increased access to online courses. The school counsellor still has an ethical responsibility to make certain that access to an online course is in the best interest of the student. While these courses create an alternative to classroom-based course, it is not the academic answer for all students. Counsellors must collaborate with students and their parents concerning the appropriateness of these courses, and how they fit into the student's overall academic pathway and social development.

#### Acceptable Case

- a) When asked to sign for an e-Course by a parent, the counsellor meets with the student and parent to determine if this learning vehicle is an appropriate fit for this student, and to determine that it will not have a negative impact on the student's present daytime course load, and will not create additional stress on the student's "life-space."

#### Unacceptable Case

- a) A parent emails the counsellor, asking them to fax a permission form for an online course. The parent says they want their child to take this e-Course "because they spend too much time video gaming, and can take this course to fill their spare time." The counsellor signs the form, and faxes it to the virtual school.

### Identity

The counsellor must provide the client with proof of their professional identity from alternative sources, including second party professional verification (preferably through OSCA, or other comparable professional association). Similarly, the client is to confirm by alternative means (e.g. telephone number) in the event that the counsellor must contact the client because of email service disruption. In addition, the counsellor may have to summon emergency support personnel in the event of life-threatening comments from the client. Therefore, (in the case of interactions dealing with personal/emotional issues), the cyber counsellor is to obtain the client's actual name, real address and phone number at the beginning of the counselling email-based interactions.

#### Acceptable Case

- a) A cyber counsellor is approached online by a student who admits to deep depression, but refuses to identify themselves. The counsellor indicates that further email discussion is not possible with an anonymous student.

#### Unacceptable Case

- b) An email client reports a wish to commit suicide. The cyber counsellor begins to self-reveal that they also had these emotions in the past, and encourages the anonymous client to vent the depressive feelings.

### Length of Archiving

The counsellor must indicate to the client the length of time the email interactions are archived.

#### Acceptable Case

- a) The cyber counsellor indicates that the email interactions will be kept only for the duration of the series of sessions; the email file will be deleted immediately after the last session.

#### Unacceptable Case

- a) The cyber counsellor finds that a certain client has a fascinating issue, and decides to save the interaction log for possible future use in an article.

### File Sharing and Storage

The counsellor must indicate to the client if the email interactions are shared with professional colleagues or supervisors for the purposes of research or professional development.

#### Acceptable Case

- a) The cyber counsellor saves client notes and email interactions in a secure, password-protected file on their computer.

#### Unacceptable Case

- b) Because the cyber counsellor is not always available, they save their client notes and email interactions of an identified student in a shared cloud storage area so that the other counsellors can access the information in case the client comes into the Guidance Office unexpectedly.

### Alternative Emergency Access Points

The counsellor is to provide the client with alternative access points (phone, fax or mail) in the event of email service disruption.

#### Acceptable Case

- a) The Guidance homepage on the school's Website also lists the school's telephone and fax numbers.



### Unacceptable Case

- a) In an effort to reduce the amount of telephone and fax traffic to the school, and to aggressively market this new Cyber counselling Service, only the email address of the Guidance Office is provided on the school's website.

### Web Applications

If the counsellor provides follow-up websites for further client research (e.g. career and educational sites), the counsellor must confirm that these are still active and accurate.

### Acceptable Case

- a) A counsellor is assigned to constantly update the Guidance homepage with current and appropriate links to career, educational and personal-support websites.

### Unacceptable Case

- a) The Guidance homepage lists links to popular commercial gateway sites that direct users to a full range of topical websites. However, these links are not periodically re-assessed to determine their existence and their level of commercialization.



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## SOCIAL MEDIA

The use of social media to relay current guidance and career education information has increased in recent years. Guidance Counsellors are choosing to rely on social media to communicate with staff, students and their families. The use of email, texting, webcam, social media sites, and videoconferencing are just a few of the methods being used. The OCT Professional Advisory states: "[The use of the Internet and social media](#)", despite best intentions, may cause OCTs to forget their professional responsibilities and the unique position of trust and authority given to them by society. The dynamic between a teacher and a student is forever changed when the two become 'friends' in an online environment."



### Acceptable Cases

- a) A grade 9 student has come to a counsellor's office concerned that a group picture they were in at a football game has now been retweeted. They gave permission to have their picture taken, and shared, with their friends, but not for it to be tweeted to the entire community. The counsellor discusses appropriate use of social media with the student and alerts the Administrator as to what has occurred.
- b) A counsellor tweets out that a post-secondary institution will be visiting the school at lunch.
- c) A counsellor receives permission to send out a congratulatory tweet about a large bursary award received by a student at the school.
- d) Other professional institutions, associations, and other community agencies are following a counsellor's twitter account.

### Unacceptable Cases

- a) A guidance department has set up a twitter account, yet the site is rarely checked for retweeting content.
- b) A parent tweets a thank-you note to a counsellor about the quality of services received at the school and this note is then tweeted out to the community as a promotion for the quality of services offered at the school.
- c) A counsellor decides to share some information on twitter, yet does not check the level of personal information the students has given permission to share. (e.g. picture only, name only)
- d) A counsellor has a personal social media page and accepts 'friend' invitations from current students at the school. The student and the counsellor regularly interact online.

## LEADERSHIP AND PEER SUPPORT PROGRAMS

Peer assisting programs exist within a number of secondary and elementary schools, colleges and universities. These programs have enhanced the effectiveness of existing services by increasing the outreach programs available to students and enhancing Guidance services. Peer assistants offer friendship, encouragement and support to their fellow students and they can assist with school and community events.

There are two types of Leadership/Peer Assisting programs in high school: volunteer or extracurricular and GPP30 – Leadership and Peer Support, a grade 11 open course. (For more information about this credit course, please access the [Guidance and Career Education curriculum](#). While the two types of programs are similar in their outcomes, it is important to refer to the course expectations for completion of the GPP30 credit. Teachers who are conducting peer-assisting programs must accept the responsibility of ensuring that their programs fall within the legal framework as defined by The Education Act, as well as meeting the ethical standards as set forth by the College of Teachers and the Ontario School Counsellors’ Association.

### Selection, Training, and Support

#### Selection

Establishing specific guidelines/criteria for selecting volunteer peer helping programs is imperative. A personal interview either in an individual or group format should take place. The following information may be obtained as part of the selection process:

- a detailed written application asking for examples of leadership, volunteering, helping situations, and what confidentiality means to the applicant
- teacher references
- proof of good attendance; exemplary “work ethic”; and good grades.
- the intent of the applicant as to interest in pursuing this program

#### Training

Since Peer Assistance Programs are constantly open to scrutiny, it is imperative that the students are adequately prepared for the tasks they undertake. Training and instruction are of paramount importance. We have an ethical obligation to provide students with the skills necessary to meet their objectives. See Course Profile for specific expectations of GPP30.

#### Suggested Topics for Training Sessions

It is fundamental that peer assistants receive as much training and preparation as possible before they are thrust into a helping situation. Essential topics for training include:

- Confidentiality
- Communication skills
- Empathy vs. sympathy
- Assertiveness
- Volunteerism
- Diversity
- Suicide awareness
- Various social/emotional/physical issues

- Study techniques
- Education and career research strategies

## Ongoing Support

Regular meetings with students for the purpose of training, supervision, sharing and personal growth are essential responsibilities of the teacher who implements the program. Teachers who neglect to monitor and supervise the actions of their students could be subject to criticism or in the worst-case scenario, dismissal by their District School Board administration.

## Appropriate Roles and/or Activities

Peer assistants are effective communicators with their peers. Their strength lies in their proximity to the problems and events that face their fellow students. As long as peer assistants listen and open the lines of communication, they serve an important function.

Some examples of appropriate activities for any assistance program are: guidance clubs, orientation of new students, newsletters, tutoring, mediation, mentoring, community outreach projects, i.e., food drives, helping senior citizens, presentation of workshops, organization of relevant awareness days and displays, i.e., anti-bullying, study skills, celebration of diversity, teenage stress, alcohol and drug abuse, etc.

## Ontario Student Records/Personal Information

The question of OSRs and their use is one area that is very specifically addressed by The [Education Act](#). Because of the privileged nature of the information that is contained in the school record folder, its access is restricted to supervisory officers, principals and teachers of the school, never to peer helpers. To ensure there is no disclosure to third parties, peer assistants cannot have any access to other student's school records (either paper or electronic); Individual Pathways Plan (IPPs), Individual Education Plans (IEPs); or reports, counselling summaries, school/board system computer(s), or programs that have student information.

## Referrals and Confidentiality

Although the Peer Assistant Program is not designed for helpers to deal with serious personal problems of other students, at times such problems may be confided to them. Peer assistants are obligated to respect the confidentiality of information gained in the assisting relationship. However, peer assistants must recognize their limitations. The following guidelines are offered to peer assistants in decisions about when to refer a student to a professional school Guidance counsellor.

### Referrals “must” occur when:

- the client shows or expresses thoughts or symptoms of depression and/or suicide
- physical or emotional danger to students or other persons is known or suspected
- acts or activities which are illegal become known
- a peer assistant feels unable to deal in a caring and responsible way with a student's concern
- a peer assistant needs some assistance or direction in dealing with a student's concern

See also [Confidentiality](#).

## Keeping Informed

It is important to keep the community aware of the existence and benefits of leadership and peer support programs. This can easily be achieved through a course selection guide, student handbook, pamphlets, school website, and the media, i.e., photographs and newspaper coverage of all community events.

The Peer Assisting Programs in Ontario schools serve many different functions. Each of them, however, must set its program objectives and constantly evaluate whether it is meeting its goals within the framework of the law, guidelines of the Ministry of Education and ethical standards as set out by the College of Teachers and the Ontario School Counsellors' Association.

## Ethically Speaking

As noted, Section 266 of the Education Act states that student records are privileged and are available only to supervisory officers, the principals and teachers for the improvement and instruction of the student. The records are not available to other parties without written permission of the parent or guardian of the pupil, or, where the pupil is an adult, the written permission of the student. Consequently, lack of conformity with these instructions would be grounds for action by District School Boards. In addition, civil actions might be launched based on liability or negligence.



OSCA/ACOSO

## MEASUREMENT AND EVALUATION

With the increased importance of standardized testing in areas such as student diploma requirements, career exploration, post-secondary planning, and supporting special-needs students, it has become essential that the trained school counsellor be knowledgeable in the fundamentals of educational statistics (e.g., means, medians, percentiles) and of testing theory (validity, reliability, error of measurement).

Measurement and evaluation information referred to in this section is deemed to be that information which is stored in the Ontario Student Record. As such, all current OSR regulations apply, (see [Maintenance of Records](#)) as well as regulations from the [Municipal Freedom of Information and Protection of Privacy Act](#).

### **01** Counsellors have a responsibility when sharing assessment information about counselees with other professionals to follow procedures outlined in the current [Ontario Student Record Guideline \(2000\)](#).

#### Acceptable Cases

- a) One of the counsellor's clients has been referred to a psychologist. Once the appropriate release form has been signed, they ensure that the results of the diagnostic tests are forwarded to assist in the girl's assessment.
- b) Having obtained the necessary release forms, the counsellor forwards a career assessment report and an educational plan of an adult student to the community agency responsible for general welfare assistance.
- c) A student has been hired by a company. The latter requests evaluative information, especially standardized test scores. The appropriate release of information has been granted. The counsellor contacts the company to inquire about the purpose and use of such data to ensure that it will be treated in a professional and correct manner.

#### Unacceptable Cases

- a) A counsellor posts the individual results of a recently administered battery of tests for a special needs student in the Staff Room.
- b) Upon the receipt of a request for OSR information and a "release form," the counsellor forwards to a prospective employer the relevant data including a personality assessment profile. This assessment had been used in the treatment of a problem the student had experienced four years earlier.

#### Ethically Speaking

As mentioned previously in relation to other ethical standards pertaining to confidentiality, potential legal actions resulting from non-compliance with this ethical principle could be a basis for charges of libel or slander. The allegedly careless sharing of evaluative information must lead to the counselee being harmed to a serious degree in order for legal action to be taken. In addition, the counsellor could be prosecuted pursuant to the [Municipal Freedom of Information and Protection of Privacy Act](#).

**02** In general, assessment instrument results represent only one factor in a variety of pertinent data for counselling purposes. It is the responsibility of the counsellor to supply adequate orientation, which may be placed in proper perspective with other relevant factors. The counsellor must recognize that language, socio-economic, ethnic and cultural factors may affect the validity of assessment results.

#### Acceptable Cases

- a) A father contacts their daughter's counsellor concerning the parents' intention of withdrawing them from school. The basis for this course of action is what the father describes as "gross underachievement." An important factor in their thinking is the result of a single test administered three years previously. The counsellor arranges to see the girl and their parents. One of the aims of the session is to enable the counsellor to interpret the test result for them and to put the result in perspective. Subsequently, they can discuss available alternatives more effectively.
- b) A relatively diligent and mature Grade 11 student, who achieves high marks in U courses requests aptitude testing to assist in planning. The student is very disappointed with the results and, after discussion with their parents, informs the counsellor that they must cease considering university as a possibility due to their test scores. The counsellor re-emphasizes that this is only one of many important factors and recommends a complete career and educational assessment.

#### Unacceptable Case

- a) A counsellor routinely administers the Strong Interest Inventory to all grade eleven students without regard to their socioeconomic, ethnic or cultural background or their potential career plans.

#### Ethically Speaking

Negligence suits might result from gross inconsistency with this ethical standard. It may be shown that a student's career possibilities and lifetime income have been significantly limited by the undue stress placed solely on test results in placing the student. Obviously, there are numerous checks built into the systems of most District School Boards so that inappropriate placement is rectified. Such suits, moreover, are unlikely to succeed in Ontario. There have been some successful suits of the type being discussed in the United States. In Ontario, counsellors would more likely face action from employers rather than court actions in the face of violations.

**03** Counsellors, when using standardized tests for the assessment of counselees, will consider only appropriate tests of recognized validity and reliability. They will use only tests, which they are competent to administer.

#### Acceptable Cases

- a) The Head of Guidance ensures that all counsellors have received appropriate training in the use and interpretation of all tests being used in the department.
- b) A counsellor is placed in charge of conducting a thorough annual review of any testing being done in the Guidance Department. Their resources and knowledge of development in testing and measurement remain up-to date through the reading of appropriate journals and other publications as well as participation in workshops and conferences.
- c) A parent requests that their child be tested to determine whether they have a learning disability. The counsellor refers the child for assessment to the individual responsible for the leadership in the Special Education Department.

- d) A Guidance Head decides to increase the amount of testing done by their department, but they feel uninformed in the area of testing. They therefore take a summer course on testing at a university. During the course, they compare available tests related to their aims.

#### Unacceptable Cases

- a) A counsellor uses a diagnostic test available in their school although they have had no training in its use.
- b) Since copies of a particular aptitude test are plentiful in their department, a person responsible for leadership in the Guidance Office decides to administer it to individuals wanting information concerning their abilities. This individual does no research concerning the validity or reliability of the test.
- c) At a workshop, a counsellor learns that one high school incorporates a personality type indicator in one of its career education credit courses. Although they have had no training or experience with such resources, they decide to include it in the same course at their school.
- d) A counsellor is asked by a teacher to determine if a student has a particular learning disability. The counsellor administers a general intelligence test on the assumption that, through it, any problem in learning will become evident.

#### Ethically Speaking

Where a counsellor uses a test, which they are not competent to administer, they will obviously be exposed to employment repercussions with respect to incompetence, in possible civil actions by parents, and charges from the College of Teachers.

**04** **Counsellors are obligated to administer standardized tests in strict accordance with the published directions and ensure that examinees have adequate orientation to test procedures.**

#### Acceptable Cases

- a) Prior to initiating the school's testing program, the counsellor ensures that each group being tested is well informed about all facets of the program. They train a small group of teachers to assist with administration.
- b) The counsellor proposes a group testing program. The principal refuses to alter period length to suit the testing; therefore, students would have 10 minutes less than they should have for the test. The counsellor is advised to allow for the diminished time in the scoring and administration of the tests. They explain that this would not be ethical.

#### Unacceptable Cases

- a) A counsellor gives an interest inventory to a student. Later, they see the student completing the inventory with friends offering advice. The atmosphere, they perceive, is far from serious. In the subsequent interpretation session, the counsellor does not mention this potential problem.
- b) A counsellor happens to know what test is used by a company hiring apprentices. In discussion with their counsellor, the student, who wants to obtain an apprenticeship position with this company, learns that the counsellor has access to this test. They ask the counsellor to give them the test and to examine the results as this would enable them to do better on the test when given by the company. The counsellor agrees to do so.



## Ethically Speaking

In the example above, where the counsellor gives the student access to the test, they would clearly be subject to potential civil action by the company, especially if the student were negligent in the job or committed some other wrongful activity. As noted previously, the counsellor may also be subject to a complaint at the College of Teachers or sanctions from their employer.

# 05 **Counsellors have an obligation to interpret test results to counselees in light of all other evaluation data. Tests and other assessment instruments must be followed by competent interpretation (e.g., in reference to transition to post-secondary education, training and workplace).**

## Acceptable Cases

- a) The WISC has been administered to a student following which the parents and student are anxious to learn results. The psychometrist sends the profile sheet to the counsellor for inclusion in the OSR. The counsellor refuses to hold an interpretation session without the psychometrist present, as they have not been trained to interpret WISC results.
- b) It is the school's policy to administer a basic skills test annually, to record the results, but to make no effort to convey scores or interpretive information to students and parents. The counsellor approaches the principal with a program whereby results and interpretive suggestions can be disseminated by qualified counsellors.
- c) A counsellor is confronted with an aptitude test profile with which they are unfamiliar. They contact other counsellors who have expertise in the test. Through consultation, they learn to interpret the test results.
- d) A counsellor is administering a computerized interest inventory. They remain with the student to assist with administration and interpretation.

## Unacceptable Cases

- a) Upon examining the OSR with a student, the counsellor finds scores from an achievement test battery with which they are not familiar. The student asks for interpretation of the results. Rather than appear incompetent, the counsellor develops a "common-sense" interpretation based on their general knowledge of achievement tests.
- b) Aptitude tests are administered to Grade 9 students prior to course selection sheets for Grade 10 being completed. The counsellor strongly advises the students to choose courses in Grade 10 primarily based on their percentile rankings on the aptitude tests. The high reliability and validity of the test scores are emphasized.
- c) A counsellor trains a peer helper to administer an interest inventory. When the printouts come back from the scoring service, the counsellor, who is very busy, asks the peer helper to run the interpretive session. (See [Leadership and Peer Support Programs](#))

## Ethically Speaking

Where counsellors have not interpreted test results in light of all other evaluation data, the counsellor may be subject to allegations of incompetence. Again, as noted above, allegations of incompetence may have an employment impact and there is a potential risk of action by the Ontario College of Teachers.

## **06** Counsellors, when making statements to the public, counselees or associates about tests and testing, will take care to give accurate information and proper interpretation in order to avoid false claims and misconceptions.

### Acceptable Case

A student is told by their parents to see their counsellor so that they might undergo some testing to determine the best career for them. The student obviously perceives that the outcome of testing would be the identification of the one career most suitable for them. The counsellor discusses with the student and their parents the realistic aims and limitations of testing in a student's career planning.

### Unacceptable Cases

- a) The results of an interest inventory are returned in the form of a lengthy printout. The counsellor returns the computer printouts to students without any interpretation.
- b) A reporter from the local newspaper is doing a story on minorities and standardized testing in the schools. The counsellor tells the reporter that all assessment instruments are valid with all groups of students.

### Ethically Speaking

The legal implications of this ethical principle are almost nonexistent. Perhaps closest to the realm of possibility are suits launched by test publishers in response to defamatory remarks about specific tests. If the critical remarks made by counsellors were to be widely read and of questionable accuracy the potential for suits would exist. Admittedly, this is a highly unlikely scenario.

## **07** Counsellors must ensure that the information contained in a computer assisted career counselling and guidance system is accurate and up-to-date. (See [Cyber Ethics](#))

### Acceptable Cases

- a) The Head of Guidance ensures that funds are allocated each year to pay for the annual updates of the department's computerized career search program.
- b) Counsellors encourage students to verify post-secondary admission information on individual College/University websites. Internet resources tend to be more accurate than print material because they are updated frequently.

### Unacceptable Cases

- a) A prominent career information system has not been updated for five years. The counsellor continues to use the program, and assures students that it is up-to-date and accurate.
- b) In order to save money, a counsellor continues to use an American database after a Canadian database has been developed.

### Ethically Speaking

Using outdated or incorrect data could theoretically provide a basis for an action in negligence. However, it is unlikely that the choice of career would be based solely on computer information. Thus, the chances of success are small. The employer could certainly justify some discipline, and warning to improve one's competency.

## 08 As members of the school's Education and Career/Life Planning Program Advisory Committee, counsellors share in the responsibility to monitor the implementation and effectiveness of the program.

### Acceptable Cases

- a) A Guidance Head suggests questions for a school survey for parents, teachers and students to gauge their awareness of the program and their level of involvement in it.
- b) A counsellor uses the information gathered from Exit Surveys of the incoming Grade 8 students and the outgoing Grade 12 students to suggest improvements to the school's Education and Career/Life Planning Program.

### Unacceptable Case

A Guidance Head advises their department members not to participate in the monitoring and the implementation of the program effectiveness survey.

### Ethically Speaking

A counsellor's responsibility to participate in the ongoing review and evaluation of the school's education and career/life planning program is unlikely to result in legal action against the counsellor, but there are potential employment issues if the counsellor is considered to be incompetent (or noncompliant) in this respect.



OSCA/ACOSO

# COUNSELLORS AND THE LAW

## I. Guidelines Regarding Counsellor–Police Relations

Counsellors in most regions of Ontario have excellent working relationships with the various police forces. This cooperation benefits young people. The following statements are offered to assist counsellors in appreciating the parameters of their interaction with the police.

1. To examine school records, the police must present a search warrant.
2. Although it would rarely be appropriate to do so, a principal may deny the police access to the school unless they have come to make an arrest or present a search warrant as a school is legally considered as private property.
3. In relation to young persons, the police or the school should contact the parents before the child is questioned by the police. If necessary, a principal and/or counsellor can act “in loco parentis” by informing the student of their rights and can attempt to be present during questioning.
4. Legally, unless a search warrant is presented, the only information a counsellor or student is obligated to give to the police is their name and address. Obviously, in most cases, it is appropriate to be as helpful as is reasonable in the circumstances. It is important nonetheless for a counsellor to determine how the information is to be used.

## II. Guidelines for Court Appearances

The following suggestions are intended to apply to all levels of courts. When a point is specific to a particular court, it is so stated.

### Requests to Testify

Any request that counsellors testify should take the form of a subpoena. Counsellors should insist on receiving subpoenas even in instances concerning which they would willingly appear in court. A subpoena states the time and place to which witnesses are to report in addition to the trial for which they are being summoned.

### Preparation for Court

Counsellors should attempt to prepare themselves for examination and cross-examination by anticipating potential questions. Directives should be sought from the legal representative who is responsible for the case. Witnesses are more likely to be well briefed in relation to civil cases. In criminal cases, the Crown Attorney rarely has time to discuss testimony with witnesses, although an investigating officer for the court is normally dispatched to do so. In terms of written preparation, it is appropriate to mention that witnesses are not entitled to have notes on the witness stand in courts unless the notes were made contemporaneous with the event.

### Court Proceedings

Criminal court proceedings are characterized by a concern for adhering to the letter of the law. Evidence must be substantiated. Hearsay will generally not be considered. Spectators are permitted under normal circumstances. In Youth Justice Court, the proceedings are more flexible with the aim being to help the child as effectively as possible. The Education Act and The Youth Criminal Justice Act apply in court. If the child pleads guilty, the opinions

of those present, including counsellors, may be sought by the judge. The Child and Family Services Amendment Act may also be applicable. The judge may seek the opinions of those present.

The following specific points pertain to counsellors' actual attendance in court and testimony:

- a) Often witnesses will have to wait a considerable length of time before being called. Indeed, a subpoenaed witness may not even be asked to testify. Similarly, the case may be remanded and witnesses involved will have to report at the newly scheduled time.
- b) Witness fees are paid although the rates vary.
- c) Counsellors should be judicious about materials they bring to court as any item thought to be pertinent may be requested by the court.
- d) Obviously, it is advisable to be polite and demonstrate a reasonable attitude in giving testimony. Witnesses should under no circumstances argue with the lawyer or the judge. They should take the approach that their intent is to try to be of assistance to the court.
- e) In responding to questions, counsellors are advised to direct their answers to the judge rather than the lawyer posing the questions.
- f) It is permissible for witnesses to ask for clarification if the question posed is too vague.
- g) In giving evidence, counsellors should restrict themselves to what they know or have perceived firsthand unless their opinions are specifically requested.
- h) The following options should be considered by counsellors who are asked to reveal information which they think should be kept confidential:
  - Counsellors might briefly explain the reasons for their reluctance to give the information. The judge may decide that confidentiality should be respected.
  - Counsellors may request that the courtroom be cleared while the information is discussed.
  - Counsellors, upon completion of their testimony, should ask the judge if they might depart. The judge will determine if they should remain for the purpose of being recalled to testify later.

### III. Youth Criminal Justice Act (YCJA)

[The Youth Criminal Justice Act](#) (supplanting the Young Offenders' Act) became law on April 1, 2003. Following are some of the basic highlights of the Act.

- Up until 1984, children in trouble with the law were called "juvenile delinquents." Then, under the Young Offenders Act they were renamed "young offenders." Starting April 1, 2003, they will now be called "young people" – even if convicted. The court for "young people" will be called Youth Justice Court.
- Police shall consider all alternatives for youths, including taking no further action, issuing a warning, issuing a caution (more serious), or referring the youth to a community agency or program.
- A range of extra-judicial sanctions is available for nonviolent, first-time offenders who enter the court system and take responsibility for their actions. The sanctions include judicial reprimands, fines, and orders to perform services to the victim of a crime. Judges must dismiss criminal charges if the young person complies with the extrajudicial sanctions.
- Sentences in the YCJA include:
  - a) Reprimand (stern lecture from the judge)
  - b) Intensive Support and Supervision Order (closer monitoring and more support than a probation order)
  - c) Attendance Order (requires the young person to attend a program at specified times)

- d) Deferred Custody and Supervision (allows a youth who would otherwise be sentenced to custody to serve the sentence in the community under conditions)
  - e) Intensive Rehabilitative Custody and Supervision (an alternative to adult sentences imposed for murder, attempted murder, manslaughter and aggravated sexual assault; open to youths with a mental illness, psychological or emotional disturbance; up to six years in a treatment center followed by four years of community supervision).
- Publication bans prohibit identities of young people – victims, witnesses or the accused – from being released to the public, until a case is over, the youth is given an adult sentence and the parents’ consent. It is possible young murderers and young murder victims may never be identified.
  - Victims will have increased rights. They will be consulted on alternative measures, offered apologies and allowed access to a convicted youth’s criminal record.
  - A judge can order an assessment to determine if a young person is in need of child welfare services.
  - Youth sentences cannot be harsher than adult sentences for the same crime.
  - Youths accused of serious violent offences can no longer be transferred to adult court for trial. All trials will take place in youth court, but upon conviction a Crown can seek an adult sentence. The age at which it is presumed youths will be sentenced as adults drops to 14 from 16.

Please refer to the Government of Canada Department of Justice website for more information on the [Youth Criminal Justice Act](#).

### Ethically Speaking

One of the primary changes from the Young Offenders Act to the Youth Criminal Justice Act is to confer statutory recognition on less formal, non-judicial responses to youth offending behavior.

The new Act sets out a number of less formal responses such as police warnings, cautioning, referral to community programs, apologies to victims and acknowledgement and reparation of damages. The Act obliges police to consider the suitability of these less formal responses in each case and creates a presumption of their suitability with respect to non-violent first offenders.

### Pre-arrest Questioning

In some situations, whether the questioning is being done by police or school personnel, counsellors may find themselves in positions of advocacy vis-à-vis the alleged young person especially in the absence of a parent.

### Assessment and Pre-disposition Reports

Medical or psychological assessments may be ordered by the court at any stage of the proceedings, or may be requested by crown counsel, defense counsel, or the young person, to assess such characteristics as physical or mental illness, intellectual capabilities, or learning disabilities. Counsellors are often consulted in the development of such assessments.

If the young person is found guilty, the judge may require a pre-disposition report. This report must be prepared if the disposition involves custody. As the name implies, the aim of such a report is to provide the judge with information, which will lead to the most effective and appropriate disposition.

The main guideline for counsellors as they contribute to assessments and pre-disposition reports relates to their legal context. It is essential that counsellors be thorough and professional when consulted by the person preparing

the report. Since such consultations often take the form of phone calls in the midst of other tasks, the seriousness and eventual implications of the reports may be difficult to appreciate.

#### IV. Freedom of Information and Protection of Privacy Act, R.S.O. 1990

The above-named provincial act came into effect on January 1, 1988. As of that date, it applied to provincial government ministries, agencies, and departments with expansion of its domain, taking place during the following three years.

A brochure published by the Freedom of Information and Privacy Branch, Management Board of Cabinet summarized the purposes of the Provincial Act in the following manner:

“The Act has two main objectives. First, it provides all persons with a legal right of access to information contained in the records of government ministries, agencies, boards, commissions and corporations. Secondly, it sets out the standards for privacy protection that must be met by all of these institutions when they collect, use and disclose information of a personal nature on individuals. The Act consequently provides a balance between allowing the widest possible access to government information and respecting the right of each individual to personal privacy.”

The government officials responsible for accommodating the Act to such sectors as District Boards of Education are aware that considerable care must be taken especially regarding such information as that contained in the Ontario Student Record System. Counsellors may seek clarifications from their District School Board’s Freedom of Information Coordinator.

#### V. Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990

On January 1, 1991, the Freedom of Information and Protection of Privacy principles are extended by the Municipal Freedom of Information and Protection of Privacy Act, 1989 to a group of about 3,000 institutions including: municipal corporations, district school boards, public utilities commissions, hydroelectric commissions, transit commissions, police commissions, conservation authorities, boards of health and other local boards. This act is based on the principles found in the Freedom of Information Act, 1987. First, information held by an institution covered should, in general, be available to the public. Second, any exception from the right of access to information should be limited to specific conditions. Third, decisions relating to access to information should be reviewed by the [Independent Information and Privacy Commissioner](#).

Another important principle is that personal information held by institutions should be protected from unauthorized disclosure. To give effect to this principle, the act has a number of provisions dealing with the collection, use and disclosure of personal information.

Counsellors may seek clarification from their District School Board’s Freedom of Information Coordinator.

#### PIM (Privacy and Information Management) Taskforce

The [PIM Taskforce toolkit](#) provides practical suggestions with respect to records maintenance and privacy issues. It makes reference to portions of applicable legislation including the Municipal Freedom of Information and Privacy Act (MFIPPA), R.S.O. 1990, c.M.56; [Personal Health Information Protection Act](#) (PHIPA), S.O. 2004, c.3, Sched. A; and Education Act, R.S.O. 1990, c.E.2. The information contained in this document is for general

reference purposes and should not be construed as legal advice. You should consult with your own legal counsel for the purposes of interpretation.

To ensure that it supports all Ontario school boards and authorities, the toolkit has been developed around five guiding principles:

- Aligned with the provision of programs and services to students;
- Inclusive across the school board/authority and for all school boards/authorities (small and large, English and French, public and Catholic);
- Written in plain language, avoiding jargon/acronyms;
- Relevant to school boards/authorities (meaningful, practical and scalable);
- Ethically and legally relevant.

Of particular interest to counsellors are the following topics:

- Information sharing between secondary schools and feeder schools;
- Guidelines for securing mobile devices;
- Working outside of the office or school;
- School board/authority website guidelines;
- Maintenance of Records (records versus non-records);
- Privacy breach protocol.

## VI. Glossary of Legal Terms

This section should familiarize counsellors with the legal jargon that may be encountered in their work. The explanations are not legal definitions but are intended to be interpretations acceptable for the counsellor's use. Only qualified lawyers could assess the applicability of a particular concept to a given situation. See also, [Justice for Children and Youth](#).

### *Confidential Communication*

The ethical decision by a counsellor that they should not divulge what has been revealed to them in their contact with a counselee.

### *Privileged Communication*

Utterances made in connection with official duties against which no legal action can be taken. Privileged Communication refers to the right of the client of professional persons to prevent these persons from revealing in legal proceedings any information given in confidence because of the professional relationship.

### *Absolute Privilege*

All communications of judges while on the bench, of legislators in the house, and of witnesses under oath, are accorded absolute privilege. Lawyers may not divulge information, incriminating or otherwise, as testimony or at the behest of government or legal officials.

### *Qualified Privileged Communications*

Ministers and doctors in Ontario are usually considered to have privileged communication. If a counsellor were required to testify it is very doubtful that they would be allowed privileged communication. The rules are not hard and fast. The judge would decide in an individual case. By way of comparison, communication in many jurisdictions in the United States, even if defamatory, may be privileged if the following conditions are met:



- 1) the communication originates with the understanding that it will not be disclosed;
- 2) confidentiality must be maintained for continuance of the relationship between the parties;
- 3) confidentiality must be fostered with care and perseverance;
- 4) the harm to the relationships would be greater than the good incurred in the litigation.

### *Defamation*

Communication tending to harm a person's reputation to lower them in the estimation of the community or to deter people from associating with them. Statements must have been false and/ or made with malicious intent and must be made to a third party.

### *Hearsay*

What some other person has said. Hearsay is not usually accepted as an indication of evidence of the existence of the fact. What a counsellee tells a counsellor would almost always be hearsay evidence.

### *Liability*

A breach of what has been established as a legal duty. In addition to proving a breach of duty, a successful liability suit must show that damages have resulted.

### *Libel*

Defamatory communication that is written.

### *Malpractice*

A term used more often in the United States to describe any professional misconduct or any unreasonable lack of skill or fidelity in the performance of professional or fiduciary duties. Since an Ontario school counsellor is not defined in law, malpractice would be difficult to assess.

### *Negligence*

Failure to perform, or the unsatisfactory performance of a legal duty imposed by statute or common law. A negligence action might be based on the unintentional breach of a legal duty causing damage reasonably foreseeable, without which breach the damage would not have occurred. The counsellor might be held negligent if they gave incorrect educational information.

### *Privacy*

The right to live without unwarranted interference by the public about matters with which the public is not necessarily concerned. Invasion of privacy refers to the interruption of private communication.

### *Slander*

Defamatory communication that is spoken.

### *Third Party*

Any person not involved in the original dialogue.

### *Unethical Behaviour*

Behaviour at variance with the moral precepts and ethical principles suggested by a professional organization. Ethical behaviour is not a matter of law.

## MAINTENANCE OF RECORDS

1. Counsellors must possess a thorough understanding of Ministry/District School Board policies with regard to the retention, storage, preservation and security of records. ([Ontario Student Record Guideline](#))
2. Counsellors, when keeping notes or records, must ensure that they are stored in a manner that protects confidentiality and guarantees security.
3. Records collected during the counselling relationship may include notes, assessment data, correspondence and other information gathered or received from other sources. All records possessed by counsellors must comply with the regulations outlined in the current OSR Guidelines and in the Freedom of Information and Privacy Protection Act.
4. Records document the specific nature of the contact and contain only information that is relevant and useful to the understanding of the situation and what action resulted from the contact. The records must be factual in nature and written with the assumption that someone else might read the information if the records are subpoenaed or with permission of the counselee or their parents.
5. Counsellors must understand their Board's policies and procedures with respect to access to and disclosure of confidential client information to: other Boards of Education; outside professionals; and community, social or government agencies. In the absence of any Board policy the guideline to be applied is that the transfer of information will occur only with the written consent of the client (if under 18, then a parent or guardian) and/or when required by law.
6. Counsellors understand that clients have a right to access their counselling records.

### Ethically Speaking

Section 266 of the Education Act and Ontario Student Record Guideline govern the law with respect to student records. See also the discussion in [Confidentiality](#).

### Support Workers in the Guidance Office

#### Working with Paraprofessionals and Other Professionals

Guidance Counsellors who find themselves being supported in their jobs by counselling paraprofessionals or other professionals (e.g., Social Workers, Child and Youth Workers, Public Health Nurses, Doctors, etc.) should consider the following:

1. A clear job description should be developed that specifies the scope and limitations of the position. All process considerations and a hierarchy of authority should be established in advance and clearly understood by all parties. Ideally this should happen at the District School Board level. Remember that paraprofessionals and other professionals are not necessarily governed by the laws of the Education Act. All parties need to be made acutely aware of those areas where conflict may occur.
2. An in-depth orientation must be provided for all paraprofessionals and other professionals working in a Guidance Office with frequent opportunities for ongoing professional development.

## APPENDICES

### A: The Child and Family Services Amendment Act

In May of 1999, the government of Ontario passed Bill 6, the Child and Family Services Amendment Act. This legislation has significance for all teachers because it lowers the threshold for reporting children suffering abuse or at risk of suffering abuse. It contains an ongoing requirement to report, requires teachers to report directly to the [Children's Aid Society](#), and provides fines for failure to report.

#### Duties and Responsibilities of Teachers

1. Teachers must make themselves aware and knowledgeable of existing Board policies and procedures regarding responsibilities under the [Child and Family Services Act](#).
2. If a teacher has reasonable grounds to suspect that a student is suffering abuse or at risk of suffering abuse, the teacher has a duty and responsibility to report personally to the Children's Aid Society. The Act requires that an individual has an obligation to report personally.
3. If a teacher has additional reasonable grounds to suspect that a student is suffering abuse or at risk of suffering abuse, the teacher has a duty and responsibility to make further reports personally to the Children's Aid Society.
4. Responsibility to report to the Children's Aid Society regarding students who are suffering abuse or at risk of suffering abuse based upon reasonable grounds, applies to every person who performs professional or official duties with respect to children.
5. Failure to report suspicion of abuse to a Children's Aid Society could result in a fine.

### B: Ethical Standards for the Teaching Profession

### C: Age-based Legal Milestones

Starting School: You can start school when you are 4 (or will be turning 4 between Sept 1st and Dec 31st of that school year) if your school board offers junior kindergarten, OR when you are 5 (or will be turning 5 between Sept 1st and Dec 31st of that school year) if your school board offers senior kindergarten. You are required to attend school at age 6 [[Education Act](#)].

#### Sexual activity:

- 12 - 13 years: You can only consent to sexual activity with a person who is less than 2 years older than you. That person must not be in a position of authority or trust over you (i.e. teacher, coach, doctor, lawyer).
- 14 - 15 years: You can only consent to sexual activity with a person who is less than 5 years older than you. That person must not be in a position of authority or trust over you (i.e. teacher, coach, doctor, lawyer).
- 16 - 17 years: You can consent to sexual activity with a person who is older than you by any number of years. That person must not be in a position of authority or trust over you (i.e., teacher, coach, doctor, lawyer). [[Criminal Code of Canada](#)]

Quitting school:

If you turn 17 between the first day of school and December 31st, you can quit school at the end of that school year. If you turn 18 between January 1st and end of August, can quit school on your 18th birthday. You can also leave school if you have already graduated from high-school. [Education Act]

For 24-hour toll-free, confidential counselling, referral and information: Kids Help Phone at 1-800-668-6868 or online at <https://kidshelpphone.ca/>

For resources around you, visit: <https://apps.kidshelpphone.ca/resourcesaroundme/welcome.html>

D: Professional Misconduct, Ontario College of Teachers

E: Professional Advisory, Professional Misconduct of a Sexual Nature, Ontario College of Teachers.



Teachers and their governing body have the same professional standards and expectations as various regulated health professionals, including doctors and nurses.

F: The Student Protection Act

The Student Protection Act, 2002 is designed to better protect young people from sexual abuse, especially in Ontario's schools. The Act sets a clear definition of sexual abuse. It provides the Ontario College of Teachers with the added authority it needs to take strong action against those who would harm children.

- It requires all employers to report to the Ontario College of Teachers any certified teacher charged with a sexual offence against a student. School Boards as well as public schools, private schools, tutoring companies and other organizations are required to report misconduct if they employ teachers certified by the Ontario College of Teachers to instruct students.
- The Act defines sexual abuse in a comprehensive way so that in addition to sexual assault, students would also be better protected from sexual harassment.
- It ensures that any teacher in a publicly funded school is removed from the classroom if they are charged with sexual assault against a student.
- It improves information-sharing, making it much more difficult for a teacher who has been disciplined for sexual abuse to quit and move from one Board or school to another, undetected.
- Employers of certified teachers would face fines, upon conviction, for breaking the reporting rules.
- The Act clarifies that teachers are not required to inform their colleagues when making a report about them with regard to sexual abuse. The Ministry of Education will work to extend this to all situations where a student may be at risk of potential harm.

G: Use of Electronic Communication and Social Media



H: The Freedom of Information and Protection of Privacy Act

## REFERENCES AND RESOURCES

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3. [American School Counselor Association](#)
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5. [Canadian Counselling and Psychotherapy Association](#)
6. [Children's Aid Society of Toronto: Reporting Child Abuse & Neglect](#)
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9. [Creating Pathways to Success: An Education and Career/Life Planning Program for Schools Policy and Program Requirements Kindergarten to Grade 12, 2013, Ontario Ministry of Education, ISBN 978-1-4606-2922-2](#)
10. [Department of Justice](#)
11. [Education Act](#)
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13. [Egale: Canada Human Rights Trust](#)
14. [Elementary Teachers' Federation of Ontario](#)
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36. [Supporting Minds An Educator's Guide to Promoting Students' Mental Health and Well-being, Ontario Ministry of Education, 2013 ISBN 978-1-4606-0427-4](#)
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