ETHICS AND SPECIAL EDUCATION CHALLENGES: Finding Resolution
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Learning Objectives

- Explain the importance of gathering data to ensure full understanding of an ethical issue.
- Identify a variety of resources (e.g., agencies, personnel, organizations) that can be consulted when seeking to understand any policies or guidelines pertinent to an ethical dilemma.
- Apply the five-step ethical decision-making model to new ethical dilemmas.

NOTE: Please download the ASHA Code of Ethics to review during this presentation https://www.asha.org/Code-of-Ethics/

Disclosures

Financial
• Lissa is receiving an honorarium from SHAV for this presentation
• Lissa is an employee of Longwood University

Nonfinancial
• Lissa teaches Ethics at Longwood University
• Lissa served as a Director in Special Education and Student Services at the Va. Dept. of Education
• Lissa served on the ASHA Board of Ethics

Special education challenges

• Child with SSD. SLP believes is eligible for services, but eligibility team disagrees.
  • Is this ignoring the welfare of the child?
• District hires a retired bachelor’s level SLP to “cover” the caseload for a vacant position. The sped director asks you to help her out?
  • Is this participating in having non-qualified personnel serve students?
• The school district is in a due process hearing for a child who is receiving services from a contract agency.
  • What is the obligation of the contracted SLP?
• An SLP approving documentation (from SLPA/non-masters’ level SLPs) for Medicaid billing notices multiple errors.
  • Is there a concern about the welfare of the child?
• The child’s parents requested a copy of the test protocols for the assessments used in eligibility determination.
  • Can the SLP provide?
• The SLP missed 10 days for medical issues.
  • What is the obligation to make up missed time?
• The district’s assessments are out-of-date.
  • How does the SLP complete valid evaluations?
• A monolingual SLP received a referral for a child who is an English Language Learner. The district does not have regularly contracted interpreters who speak the child’s native language.
  • What is the obligation during testing?
• The SLP observed a child with significant physical and cognitive disabilities in the lunchroom who coughs and tears up while swallowing her lunch. The child is not on the SLP’s caseload.
  • What is the SLP’s obligation?
• A HS student who received TBI at a home football game is returning to school after 6 months of rehab. The SLP has no experience with TBI.
  • What are the obligations of the district and the SLP?
• The district has a 2-step hearing screening program: (a) the teachers refer students for whom they have concerns and (b) the nurse screens at 30 – 35 dB, based on her perception of the noise level.
  • Is the district ensuring the welfare of the students?
Ethical decision-making approach

- **Step 1:** Gather information to explain the situation.
- **Step 2:** Identify if it is a moral, ethical, and/or legal issue.
- **Step 3:** Consult resources and individuals to understand requirements and seek wise advice.
- **Step 4:** Brainstorm solutions to resolve and prevent.
- **Step 5:** Select action.

Step 2: Get the story straight
(i.e., Gather information to explain the situation)

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

Check yourself from drawing conclusions without complete data

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

Understand the Code of Ethics

- A framework and focused guide for professionals in support of day-to-day decision-making related to professional conduct
- Partly obligatory and disciplinary and partly aspirational and descriptive

Who is covered by the Code of Ethics

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

**Not covered**
- Non-ASHA members who hold state education credentials
- SLPAs
- Provisionally licensed SLPs
Four Principles of Ethics

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

Principle I: Responsibility to the persons served

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

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

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

Principle II: Professional Competence

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

What Rules of ethics in Principle II may be implicated by issues in schools?
Principle III: Responsibility to the Public

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

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

Principle IV: Responsibility to the Professions

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

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

Step 3: Consult resources and individuals to understand requirements and seek wise advice

What policies and procedures would you investigate?
Laws, Regulations, & Policies effecting School-Based Professionals

Federal and state (special) education laws and regulations
Local education policies and procedures

School Services

State Medicaid Laws and Regulations
State Licensure Requirements

Special Education Laws, Regulations and Policies

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Sources(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluation, eligibility, IEP</td>
<td>Federal, state, local</td>
</tr>
<tr>
<td>Parental Consent</td>
<td>Federal, state, local</td>
</tr>
<tr>
<td>Timelines</td>
<td>Federal, state, local</td>
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<tr>
<td>Caseloads</td>
<td>State, local</td>
</tr>
<tr>
<td>Provider Qualifications</td>
<td>State, local</td>
</tr>
<tr>
<td>Manifestation determination</td>
<td>Federal, state, local</td>
</tr>
</tbody>
</table>

Other Requirements

Medicaid
- Timelines
- Documentation
- Eligibility
- Personnel Qualifications

Licensure (education and licensure board)
- Qualifications
- Scope of practice (licensure board)

Local Policies and Procedures

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

Consultation – a KEY Step

- Trusted, knowledgeable professional who can ...
  - Explain laws, regulations, policy
  - Listen objectively
  - Provide feedback and suggestions
- ASHA staff
- Schools
- Ethics
- Medicaid
- State Department of Education
- State Medicaid
- Licensure board
- VEA chapter

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

- http://www.asha.org/Practice/ethics/
- https://www.asha.org/slp/schools/
Step 4: Brainstorm a variety of courses of action

What solution are you looking for?

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

Options

Discuss and Resolve
- With colleague
- With supervisor
- With agency compliance officers

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

Options

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

Questions to ask yourself …

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

Step 5: Select and Implement Action

Ideally – a “win win” approach
Let’s look at these issues using school-based examples

Child with SSD. SLP believe is eligible for services, but eligibility team disagrees.

- 1: Understand situation
- 2: Ethical, moral, legal?
- 3: Consult resources to understand requirements
- 4: Brainstorm solutions

District highers a retired bachelor’s level SLP to “cover” the caseload for a vacant position. The sped director asks you to help her out.

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The school district is in a due process hearing for a child who is receiving services from a contract agency.

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The child’s parents requested a copy of the test protocols for the assessments used in eligibility determination.

- 1: Understand situation
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The SLP missed 10 days for medical issues.

- 1: Understand situation
- 2: Ethical, moral, legal?
- 3: Consult resources to understand requirements
- 4: Brainstorm solutions

The district’s assessments are out-of-date.

- 1: Understand situation
- 2: Ethical, moral, legal?
- 3: Consult resources to understand requirements
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A monolingual SLP received an referral for a child who is an English Language Learner. The district does not have regularly contracted interpreters who speak the child’s native language.

- 1: Understand situation
- 2: Ethical, moral, legal?
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- 4: Brainstorm solutions

The SLP observed a child with significant physical and cognitive disabilities in the lunchroom who coughs and tears up while swallowing her lunch. The child is not on the SLP’s caseload.

- 1: Understand situation
- 2: Ethical, moral, legal?
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A HS student who received TBI at a home football game is returning to school after 6 months of rehab. The SLP has no experience with TBI.

- 1: Understand situation
- 2: Ethical, moral, legal?
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The district has a 2-step hearing screening program: (a) the teachers refer students for whom they have concerns and (b) the nurse screens at 30 – 35 dB, based on her perception of the noise level.

- 1: Understand situation
- 2: Ethical, moral, legal?
- 3: Consult resources to understand requirements
- 4: Brainstorm solutions
Our decisions and actions reflect not only upon our individual reputations but also upon the reputation of our workplace and profession.

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

Adapted from VCU Code of Conduct, 2013

References and Resources


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