

Ethical Practice for SLPs in Schools



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Participant Objectives

Participants will:

- Examine the purpose and function of a professional code of ethics.
- Discuss common ethical scenarios in the SLP practice.

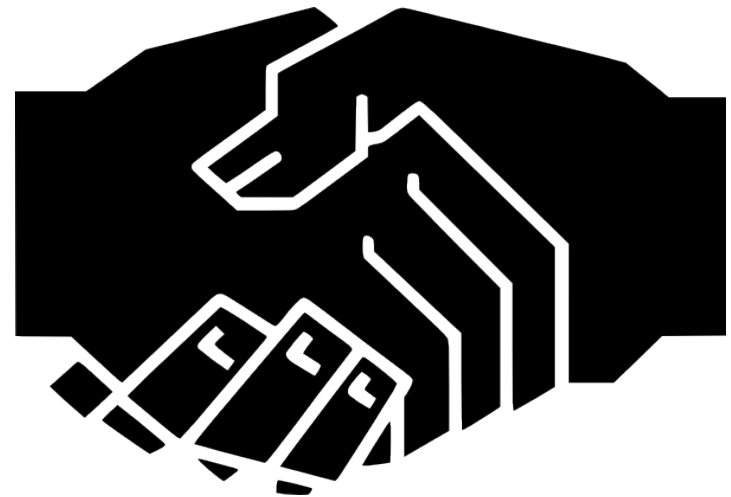
What are Ethics?

- Derived from Greek word “ethos”, character
- What is good for the individual and for society
- Establishes nature of duties
- Field of human inquiry



Why are Ethics Important?

- Improve self-worth and satisfaction in profession
- Credibility lies in technical competence and public trust
- Ethics is good business



Why Have Codes and Guidelines?

- Professional guidance (backbone)
- Provide consensus
- Give support to responsible professionals
- Official statement to promote public good
- Promote public trust



Applying Ethics to Profession

- Defining a profession
 - Advanced Expertise
 - Independent Judgment
 - Social Organization
 - Commitment to the Public Good



Ethical Standards

- Guide professional behavior related to practices, procedures and circumstances
- Established by professional organizations at national, state or regional levels, accrediting agencies or employers
- Are not religious or scientific in nature
- Organized by Preamble (vision statement), Principles (goals to be maintained), Rules of Conduct (Dos and Don'ts of each principle)

Ethical Decision Making

- Are my actions legal?
- Are my actions ethical?
- Are my actions fair?
- Would my actions be the same if they were transparent to others?



ASHA's Code of Ethics

- ASHA's Code of Ethics contains the rules or standards agreed upon by our membership that govern our conduct and activities. A code of ethics is a shared statement of the values specific to a particular group. The importance of adherence to the Code by ASHA members lies in the preservation of the highest standards of integrity and ethical principles, and it is vital to the responsible discharge of obligations by members of our profession working in all settings.

Is Adherence Optional?

- The Code of Ethics is not simply inspirational in nature; it is essential to ensuring the welfare of those served and protecting the integrity and reputation of the professions. As a consequence, ASHA members and certificate holders are required to abide by the code's principles and rules, and the Association enforces that mandate by sanctioning those found in violation. Depending on the egregiousness of the misconduct, the sanctions that the Board of Ethics can impose range from a confidential reprimand for lesser violations to revocation of ASHA membership and certification for a period of years, up to life, for violations of a serious nature

ASHA Code of Ethics

- Applies to all ASHA members, certified or not
- Applicants for membership or certification
- CF seeking to fulfill standards for certification
- Suggests minimally acceptable conduct
- Organized into a preamble and four principles of ethics which are further defined by rules of ethics
- May assist members in self-guided ethical decision making

ASHA 2016 Code of Ethics

- Updated preamble
- Modified jurisdiction over complaints
- New terminology section
- Increased ethical responsibilities for members in supervisory, mentoring, administrator or owner roles

<http://www.asha.org/uploadedFiles/ET2016-00342.pdf>

ASHA Code of Ethics

- Fundamentals of ethical conduct described by Principles of Ethics and Rules of Ethics
- Four Principles form underlying basis
- Rules are specific statements of minimally acceptable as well as unacceptable professional conduct

Principle of Ethics I

- Responsibility to persons served professionally and to research participants, both human and animal



Principle of Ethics II

- Responsibility for one's professional competence



Principle of Ethics III

- Responsibility to the Public



Principle of Ethics IV

- Responsibility for professional relationships



States' Codes of Ethics

- Codes of ethics or professional conduct are principles designed to help professionals conduct business honestly and with integrity. They are generally aspirational in nature.
- If a state does not reference a specific code, know what constitutes grounds for discipline.
- Please be advised that statutes and regulations may change at any time, so check periodically for updates.

Code of Ethics for Georgia Educators

- <http://www.gadoe.org/Curriculum-Instruction-and-Assessment/CTAE/Documents/GAPSC-Session-Code-of-Ethics.pdf>



Principles and Standards of Conduct GA Licensure

- <http://rules.sos.state.ga.us/gac/609-4>



Common Types of Ethical Complaints

- **Documentation Lapses**
- **Employer Demands**
- **Use and Supervision of Support Personnel**
- **Client Abandonment**
- **Reimbursement for Services**
- **Business Competition**
- **Impaired Practitioners**
- **Affirmative Disclosures**

Documentation Lapses



Ethical Concerns

- Supervisor requests that they “sign off” on documentation for patients they did not evaluate or treat;
- Supervisor may request altering or supplementing patient or treatment paperwork.

Example of ASHA COE

- **Principle of Ethics I; Rule Q:** Individuals shall maintain timely records and accurately record and bill for services provided and products dispensed and *shall not misrepresent services provided, products dispensed, or research and scholarly activities conducted.*

Example of ASHA COE

- **Principle of Ethics III; Rule D:** Individuals shall not defraud through intent, ignorance, or negligence or engage in *any scheme to defraud in connection with obtaining payment, reimbursement, or grants and contracts for services provided, research conducted, or products dispensed.*

Example of ASHA COE

- **Principle of Ethics IV; Rule E:** Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.



Employer Demands



Ethical Concerns

- Supervisors may demand increase in caseloads, tighter time limits, higher production quotas, and rejection of a professional's independent judgment.



Principle of Ethics II

- Rule A: Individuals who hold the Certificate of Clinical Competence shall engage in only those aspects of the professions that are within the scope of their professional practice and competence, considering their certification status, education, training, and experience.
- <http://www.asha.org/policy/SP2016-00343/>

SLP Scope of Practice (2016)



<http://www.asha.org/policy/SP2016-00343/>

Use and Supervision of Support Personnel



Ethics and Supervision of Assistants

- Because of differing state requirements and various job titles, the Ethics Office receives numerous ethical inquiries about roles and responsibilities of support personnel.
- The Board of Ethics does not have jurisdiction over an assistant practicing alone. The board's jurisdiction is limited to a member, certified member, or applicant (ASHA, 2008).
- In general, however, there is no ethical use of assistants in any setting without adequate direction and supervision by an ASHA certified professional (ASHA, 2004)
- <http://www.asha.org/policy/SP2013-00337/#sec1.10>

Vicarious Liability

- The supervisor is ultimately responsible, both legally and ethically for the actions of the supervisee.



Supervision of Students

- <http://www.asha.org/Practice/ethics/Supervision-of-Student-Clinicians/>
- ASHA-certified individuals who supervise students should possess or seek training in supervisory practice and provide supervision only in practice areas for which they possess the appropriate knowledge and skills.
- The supervisor must oversee the clinical activities and make or approve all clinical decisions to ensure that the welfare of the client is protected.
- The supervisor should inform the client or the client's family about the supervisory relationship and the qualifications of the student supervisee

Example of ASHA COE

- **Principle of Ethics II; Rule E:** Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct research activities that exceed the staff member's certification status, competence, education, training, and experience



Client Abandonment



Example of ASHA COE

- **Principle of Ethics I; Rule T.** Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event that they can no longer provide professional services.



Client Abandonment

- ASHA members must, at all times, maintain their focus on the welfare of the client, even when, as clinicians, they decide to end their relationships with employers or patients. Given the current shortage of CSD professionals, however, departures may leave clients without appropriate care. Adequate notice is necessary to prevent treatment disruptions, but even when given adequate notice, employers may be tempted to pressure or threaten departing clinicians to stay or give unreasonable amounts of notice. The Board of Ethics “Issues in Ethics” statement on client abandonment (ASHA, 2010b) offers specific guidance to remain ethical while in transition. Prior to departing, a professional must make effective efforts to provide for the patient’s continuing care. The more seamless the transition for the patient, the better.

Reimbursement for Services



Reimbursement for Services

- Ethical issues typically related to intent, fraud, and misrepresentation.
- <http://www.asha.org/Practice/ethics/Representation-of-Services/>



Possible Ethics Charges Related to Reimbursement for Services

- Misrepresenting information to obtain reimbursement or funding, regardless of the motivation of the provider.
- Providing service when there is no reasonable expectation of significant communication or swallowing benefit for the person served.
- Scheduling services more frequently or for longer than is reasonably necessary.
- Requiring staff to provide more hours of care than can be justified.
- Providing professional courtesies or complimentary care for referrals or otherwise discounting care not based on documented need.

Ethical Concerns in Schools

- Be cautious when dealing with administrators who direct you to “sign off” for services not rendered; share with them the consequences for violations of rules and regulations set by Medicaid.
- Services not adequately supervised and claims for services not provided could result in district having to repay Medicaid funds received.
- Fraudulent billing is a criminal activity, punishable by law for both the district and the participating SLP.
- Also applies to contract employees doing time sheets for hours worked, or direct employees abusing time/attendance and leave policies.

Business Competition

BSB153-T5



"Off to start your own company in the same business as ours ... no, we don't mind at all."

Business Competition

- Services must be designed to serve the public by providing accurate information in all aspects” of the professions, from advertising to prognosis.
- <http://www.asha.org/Practice/ethics/Competition-in-Professional-Practice/>

Impaired Practitioners



"These drug tests, they're absolutely confidential right?
I don't want any rumors spread about me."

Impaired Practitioners

- Recognizing and dealing with impaired practitioners, professionals, and assistants is ugly but important. Impairments range from untreated or undiagnosed mental health issues to substance abuse of all types. The issues may be as much legal as they are ethical. National mental health statistics and surveys of ASHA members indicate that there may be a number of professionals who are challenged by mental illness, substance abuse, or both. Impaired professionals pose a liability to clients and colleagues that increases with time and opportunity, so addressing their impairment is imperative.
- Because the circumstances surrounding an impaired professional are complex, this type of ethical dilemma should not be taken on by one person. The supervisor, director, owner, lawyer, employee assistance program counselor, ethics officer, and/or compliance officer should be consulted to draw up a plan that encompasses all needed aspects to manage both the impaired professional as well as his or her caseload and/or students.

Example of ASHA COE

- **Principle of Ethics IV**; Rule 1. Individuals shall not knowingly allow anyone under their supervision to engage in any practice that violates the Code of Ethics.

Example of ASHA COE

- **Principle of Ethics I; Rule S.** Individuals who have knowledge that a colleague is unable to provide professional services with reasonable skill and safety shall report this information to the appropriate authority, internally if a mechanism exists and, otherwise, externally.

Self Disclosure

- University programs and licensure boards increasingly require applicants to reveal past criminal or professional discipline history, and applicants for ASHA certification, reinstatement, and recertification must do the same. This requirement generates many inquiries from applicants regarding what or how much to reveal.
- Most licensure boards share professional discipline records of reciprocal members or applicants with the Ethics Office. Some state licensure boards also require licensees who are disciplined by a state board to self-report this professional discipline to ASHA's Ethics Office within a month of receiving it. This requirement has led to several Board of Ethics-initiated ethics complaints against ASHA members. For instance, if a member's license was revoked by the state licensing board as a result of the member being convicted of a felony by a court, the Board of Ethics would likely initiate a complaint against that member and possibly sanction the member with revocation of ASHA certification and membership for many years.

Example of ASHA COE

- **Principle of Ethics IV**; Rule S. Individuals who have been convicted; been found guilty; or entered a plea of guilty or nolo contendere to (1) any misdemeanor involving dishonesty, physical harm—or the threat of physical harm—to the person or property of another, or (2) any felony, shall self-report by notifying ASHA Standards and Ethics (see Terminology for mailing address) in writing within 30 days of the conviction, plea, or finding of guilt. Individuals shall also provide a certified copy of the conviction, plea, nolo contendere record, or docket entry to ASHA Standards and Ethics within 30 days of self-reporting.

Case Studies in Ethics



**KEEP
CALM**

AND CALL A

**SPEECH LANGUAGE
PATHOLOGIST**

Case Study

- An ASHA-certified SLP has a student clinician assigned to him, and he shares a caseload with an experienced SLP who is not ASHA certified. He needs to attend a day-long meeting at another school, and tells his student that she may work with the other SLP while he is gone for the day. After all, this SLP is experienced and would enjoy having the student to help her with her backlog of testing.

Discussion

- ASHA members and certificate holders engaged in the preparation, placement, and supervision of student clinicians must make reasonable efforts to ensure that direct practicum supervision is provided by professionals holding the appropriate CCC. They must inform students who engage in student practica for teacher licensing, or other clinical practica under a non-ASHA-certified supervisor that these experiences cannot be applied to ASHA certification. ASHA-certified personnel cannot sign for clinical practicum experiences that were actually supervised by non-ASHA-certified individuals. It is unethical for certificate holders to approve or sign for clinical hours for which they did not provide supervision.

Case Study

- An SLP just discovered that one of her long-time students has recently qualified for Medicaid. Since she was not sure exactly when the student became eligible, and she was already behind on her billing, she decides to just go ahead and bill for the time period that she last completed her billing for all of her other students who receive Medicaid.

Discussion

- Claim only for services provided to children who were eligible for Medicaid at the time services were provided (this will involve maintaining a detailed tracking system regarding students' eligibility, as it may fluctuate from month to month)

<http://www.asha.org/policy/GL2005-00056/>

Case Study in Ethics

- An SLP recommended that a student be dismissed from treatment as a related service, and the eligibility committee supported this recommendation. The child's parents objected to this recommendation, and had an outside evaluation completed by an SLP who agreed with the parents. After consultation with an attorney, they have filed for due process.

Discussion

- When clinicians and parents disagree, use research, clinical data, compromise, and your ethics to result in a favorable outcome for all involved.
- Your decision should be guided by appropriate sections of ASHA's Code of Ethics, district policies, and state and federal regulation.

http://www.asha.org/practice/ethics/clin_parent_disagree/

Case Study in Ethics

- A fellow SLP has just confessed to you that he is receiving treatment for an ongoing substance abuse problem. You have been wondering why he often comes to work looking like he just got out of bed, and appears to be confused even during informal conversation throughout the day. Teachers have shared with you that he regularly misses therapy sessions with students, and parents are asking questions.

Discussion

- **Principle of Ethics I:** Individuals shall honor their responsibility to hold paramount the welfare of persons they serve professionally or who are participants in research and scholarly activities, and they shall treat animals involved in research in a humane manner.
- **Rule A:** Individuals shall provide all services competently

Discussion

- **Principle IV, Rule M:** Individuals who have reason to believe that the Code of Ethics has been violated shall inform the Board of Ethics.

Case Study in Ethics

- Several of your students' parents have asked you about providing services for their children over the summer. This would be a perfect opportunity for you to earn that extra income.

Discussion

- Check first with your local district and/or administrator about guidelines or restrictions that may exist regarding this question.
- The persons served professionally must be fully informed of services available from the practitioner's primary employment setting as well as those from the private practice or other practice environment and given freedom to choose whether and from whom they will obtain professional services.
- The costs associated with obtaining services from the practitioner's primary employment setting versus those associated with the private practice must be made clear.
- Practitioners accepting cases in a private setting from their primary place of employment should inform the administrator at their primary employment setting of their intent.
- <http://www.asha.org/Practice/ethics/Obtaining-Clients-for-Private-Practice-From-Primary-Place-of-Employment/>

Ethics Terminology

- Conflict of Interest
- Diminished decision-making ability
- Fraud
- Impaired Practitioner
- Kickback
- Negligence
- Self-Referral

Conflict of Interest

- An opposition between the private interests and the official or professional responsibilities of a person in a position of trust, power, and/or authority.

Farcus

by David Waisglass
Gordon Coulthart



"What conflict of interest?!
I work here in my spare time."

Diminished Decision-Making Ability

- Any condition that renders a person unable to form the specific intent necessary to determine a reasonable course of action



Fraud

- Any act, expression, omission or concealment-
the intent of which is either the actual or
constructive-calculated to deceive others to
their disadvantage.



**FRAUD
ALERT**

Impaired Practitioner

- An individual whose professional practice is adversely affected by addiction, substance abuse or health-related and/or mental health-related conditions.



Kickback

- Anything of value presented to a practitioner or supplier that may induce that entity to refer health services back to the source of remuneration.



Negligence

- Breaching of a duty owed to another, which occurs because of a failure to conform to a requirement, and this failure has caused harm to another individual, which led to damages to this person(s); failure to exercise the care toward others that a reasonable or prudent person would take in the circumstances, or taking actions that such a reasonable person would not.

Self-Referral

- Referral by a physician to an entity with which the physician or member of the physician's family has a financial relationship. The relationship is such that the physician would earn a financial return based on the success of, for example, a speech and hearing clinic in which the physician invested.

Willful Blindness



Willful Blindness

- Margaret Heffernan's recent book, *Willful Blindness: Why we ignore the obvious at our peril*, (2012) highlights the very human concept of sending our attention away from an ethical problem, either because the problem is too disturbing to think about or solving the problem would require extensive effort. Heffernan asserts that as humans, across various cultures, we turn a blind eye to avoid conflict, reduce anxiety, and/or to protect ourselves. She analyzes the phenomena of willful blindness by individuals and groups, using stories of events we have all heard about through the media. Heffernan reminds us that greater understanding can lead to solutions, challenging our biases, and resolving difficult situations.
- Heffernan discusses Willful Blindness in a TED talk in 2013
<https://www.youtube.com/watch?v=PCetmZUzB5w>

Ethical Dilemmas

Snapshots



"Oh, a *drug* test. That's a relief. I thought you were going to test my *ethics*."

Avoiding Ethical Dilemmas

- Advocate for best practices.
- Use evidenced-based practices as the basis for decision making.
- Know and understand the ASHA Code of Ethics and your employer's handbook and guidelines.
- Connect the Code of Ethics with your program's mission statement, policies and procedures, and performance evaluations.
- Acquaint supervisors, administrators, and colleagues with the Code of Ethics, Issues in Ethics Statements, and potential for ethical conflicts.
- Discuss potential ethical issues before they become a problem.
- Review federal, state, and local regulations and requirements.

Avoiding Ethical Dilemmas

- <http://www.asha.org/slp/schools/prof-consult/EthicsSchoolsPractice/>



The Process

- Begin with asking the question: “Am I facing an ethical dilemma?”
- Answer is “yes” if situation is one in which personal and professional integrity are being challenged



Considerations in Ethical Decision-Making

- Professional norms and ethical principles
- Cultural heritage and influence of diverse values



Solving Ethical Dilemmas

- Identify the problem as you see it.
- Get the story straight - gather relevant data. (Federal, state, and local regulations, professional practice documents, your profession's Code of Ethics)
- Ask yourself if the problem is a regulatory issue or a process issue related to regulatory requirements.
- Compare the issue to a specific rule in your profession's Code of Ethics. Determine if rules the Code of Ethics apply to your problem and can help develop a course of action for you to pursue.
- Identify who has the power and control in the situation.
- Identify what is in your control and what is not.
- Identify your resources. These can be a supervisor, administrator, or colleague. Ask yourself if you need more information, clarification, or ideas from others who have had a similar problem.
- Make a list of possible actions and their positive and negative consequences.
- Make a plan that you can defend professionally and ethically and that meets the requirements of the regulations.
- Take action and evaluate your plan as you proceed. Determine next steps.

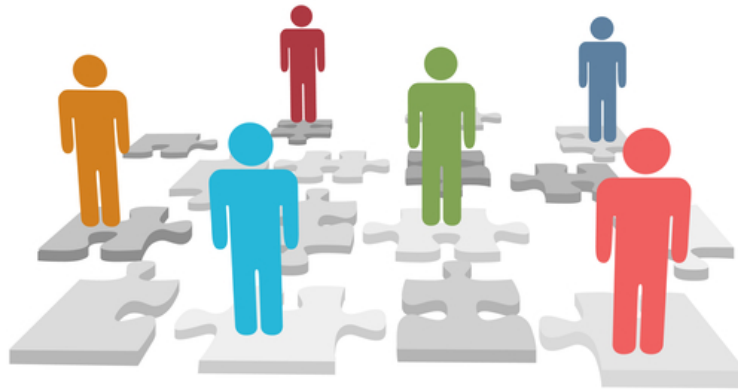
Principle of Ethics IV

- M. Individuals with evidence that the Code of Ethics may have been violated have the responsibility to work collaboratively to resolve the situation where possible or to inform the Board of Ethics through its established procedures.



Reporting a Colleague

- Report may be to an on-site supervisor within the profession, employer's HR office, state licensing board, and/or ASHA BOE



Principle of Ethics IV

- M. Individuals who have reason to believe that the Code of Ethics has been violated shall inform the Board of Ethics.
- If you have questions about the overall complaint adjudication process, contact ethics@asha.org

Filing an Ethical Complaint

- Individuals with evidence that that the Code of Ethics may have been violated have the responsibility to work collaboratively to resolve the situation where possible or inform the Board of Ethics through its established procedures.
- Individuals shall not file or encourage others to file complaints that disregard or ignore the facts that would disprove the allegation, nor should the Code of Ethics be used for personal reprisal, as a means of addressing personal animosity, or as a vehicle for retaliation
- Individuals making and responding to complaints shall comply fully with the policies of the Board of Ethics in its consideration, adjudication, and resolution of complaints of alleged violations of the Code of Ethics

ASHA Website Resources on Ethics

- www.asha.org/coe-2016
- <http://www.asha.org/practice/ethics/>
- www.asha.org/asha-ethics-webinar
- www.asha.org/state-ethics-codes
- www.asha.org/advocacy/state
- www.asha.org/schools-ethics
- www.asha.org/file-ethics-complaint

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