



School Social Work Association of America Resolution Statement

School Social Workers and Confidentiality

Introduction

Standards of practice for school social workers require that "adequate safeguards for the privacy and confidentiality of information" be maintained. Confidentiality is an underlying principle of school social work and is essential to the establishment of an atmosphere of confidence and trust between the professionals and the individuals they serve.

Information is communicated to school social workers by students and families with the expectation that these communications will remain confidential. An assurance of confidentiality promotes the free disclosure of information necessary for effective treatment.

Ethical and Legal Responsibilities

Direct Services. Providing services to students in the school setting requires a careful balance between legal and ethical responsibilities. School social workers must be conversant with federal, state, and local laws and policies governing confidentiality. School social workers must follow the guidelines established by the state and school district in which they work, recognizing that those guidelines may differ from those governing private practice.

Most states recognize that communications between social worker and client are privileged; however, this privilege is not absolute. School social workers as members of a team of professionals may be confronted with situations where disclosure of information is critical to providing assistance to the student and family. It is the school social worker's obligation to obtain informed consent, i.e., explain the limitations on confidentiality to the student and family, prior to service delivery.

Information should be shared with other school personnel only on a need-to-know basis and only for compelling professional reasons. Prior to sharing confidential information, school social workers should evaluate the responsibility to and the welfare of the student. The responsibility to maintain confidentiality also must be weighed against the responsibility to the family and the school community. However, the focus should always be on what is best for the student.

School social workers must be conversant with affirmative reporting requirements. All states now require school professionals to report suspected cases of child abuse and neglect. School social workers should be aware of school board policies and should ensure that such policies safeguard confidentiality of the reporting individual.

School social workers should familiarize themselves with school board policies and state and local laws governing reporting requirements for students who are HIV-positive or have AIDS.

School social workers should also be aware of state statutes providing confidentiality to minor students who seek treatment for sexually transmitted diseases, information about and access to birth control, and pregnancy-related health care and counseling.

Therapists, including social workers, are under an affirmative duty to warn if there is a clear and present danger to the student or another identifiable individual. The social worker must warn any individual threatened by the student and must take steps to ensure the safety of a student who threatens suicide. In all instances, school social workers must weigh the consequences of sharing information and must assume responsibility for their decisions.

Educational Records. School social workers must be conversant with federal, state, and local laws and policies regarding confidentiality of and access to education records. Education records are all records which contain information directly related to a student and which are maintained by the educational agency or institution. Parents have the right to inspect and review education records. Social workers' personal notes kept for use by only those individuals are not considered education records and are confidential.

School social workers should inform students and parents that information gathered under the individualized education program (IEP) process may be shared with all members of the IEP team. The team, which includes other school personnel and the parents, may use the social history compiled by the school social worker in making decisions about the student's educational program and placement. Confidential reports should be transmitted by facsimile only when absolutely necessary. Such reports should include a notation indicating that the material is confidential and is for professional use by only the designated recipient. The notation should also indicate that review, dissemination, distribution, or copying of the facsimile is prohibited.

Conclusion

The school social worker must carefully weigh the decision whether to preserve the confidentiality of information or to share the information, using the best interests of the student as a guide. Those decisions must be informed by federal, state, and local laws and policies, as well as the professional ethics of the school social worker.

Endnotes

1. Standard 14, NASW Standards for School Social Work Services, June 1992.
2. NASW Commission on Education Position Statement: The School Social Worker and Confidentiality.
3. Privileged communications are statements made by persons in a protected relationship, which are legally protected from disclosure on the witness stand. The privilege is exercised by the client, and the extent of the privilege is governed by state statutes. H.C. Black, Black's Law Dictionary, Fifth Edition (1979).
4. NASW Position Statement.
5. Tarasoff v. Regents of the Univ. of Calif., 17 Cal. 3d 425, 1551 P.2d 334 (1976).
6. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 (1997).
7. IDEA, § 1412(a)(4).

Approved by the SSWAA Board of Directors, May 18, 2017