

Chapter 2

Applying Law and Ethics in Professional Practice

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This chapter will provide an explanation of how educational law, professional ethics, and professional standards are the principles that regulate and guide the practice of school psychology. As either a novice or experienced school psychologist, it is important to be aware of how contemporary legal and ethical guidelines form the basis for the practice of school psychology. This applies to the multiple roles school psychologists assume each day as they assess and counsel students, consult with teachers and parents, plan and develop educational programs, and respond to a myriad of questions regarding best practice decisions impacting the students. Moreover, this chapter will focus on the use of educational law and professional ethics as the *scaffolding* that school psychologists should rely upon to guide their professional practice.

The authors will first discuss the importance of law and ethics in school psychology providing the context and rationale for including this topic in a text on developing competencies in school psychology. Second, the school psychologists' basic "rules to live by" will be examined including review of special education law with emphasis on recent revisions to Individuals with Disabilities Improvement Education Act, 2004 (IDEA, 2004), other federal legislation, court cases, National Association of School Psychologists (NASP) and American Psychological Association (APA) ethical codes, and professional literature, particularly in the area of cultural competence. Third, the authors will recommend the use of a legal and ethical decision-making model to link these areas to the practice of school psychology and provide explicated examples of legal and ethical dilemmas that school psychologists experience in their professional lives. The chapter will conclude with suggestions for developing professional competence in these areas and becoming prepared to handle future work-related challenges in the practice of school psychology.

Law and Ethical Standards as the Scaffolding for the Practice of School Psychology

In educational terms, *scaffolding* is any supporting framework used to organize and sustain investigation or inquiry. The use of scaffolding in educational research has been suggested as a means to propel researchers along the path to the "truth" about an issue, problem, or question

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(McKenzie, 1999). When used as a supporting framework, scaffolding can help to provide clear directions and clarify purpose in research.

In a similar manner, law and ethical standards are the *scaffolding* or supporting framework that guide the practice of school psychology. In graduate school, school psychology candidates study the legal and ethical basis of their profession. According to *A Blueprint for Training and Practice III*, the domain of professional legal, ethical, and social responsibility is one of the four areas of school psychological training and practice that is foundational and permeates all types of work performed by school psychologists. *Blueprint III* describes professional, legal, ethical, and social responsibility as follows:

The issues addressed by this foundational domain are relatively straightforward but absolutely central to the efficacy of a school psychologist's work. School psychologists should be prepared to practice in ways that meet all appropriate professional (practice and ethical) and legal standards, in order to enhance the quality of services and protect the rights of all parties. This includes adhering to due process guidelines in all decisions affecting students, maintaining accepted professional and ethical standards in assessment, consultation, and general professional practice, and fulfilling all legal requirements, including those in response to legislative and judicial decisions (p. 17).

University and college graduate courses within school psychology programs often are designed to cover the content of NASP (2010) *Standards for Graduate Preparation of School Psychologists. Legal, Ethical, and Professional Practice* is one of these domains encompassing legal, ethical, and professional principles in school psychology. The curriculum of these courses typically includes topics such as federal laws and regulations governing both general and special education, Supreme Court decisions and federal case laws, state laws and regulations, local school district policies and procedures adopted by Boards of Education, NASP credentialing standards, NASP and APA ethical codes, professional association position statements, consensus “best practice” publications, literature on evidence-based practice, and benefits of professional supervision and collaboration with colleagues. Each of these topics plays a role in providing the *scaffolding* that will support, guide, and assist the decisions that school psychologists will be making throughout their professional practice.

Literature Review

In order for school psychologists to be proficient in the *Blueprint III's* domain of competence of Professional, Legal, Ethical, and Social Responsibility, they must be aware of the “basic rules” by which they must practice. While the objective of this chapter is not to provide a review of US Civics or Ethics 101, there are basic legal, ethical, and professional guidelines that are important to this discussion.

Federal Legislation Impacting the Practice of School Psychology

Within the United States government's federalist structure, the US Constitution is known as the “supreme law of the land” and outlines the federal government's role as the protector of the rights and liberties of the people. The US Constitution does not guarantee the provision of education to US citizens, but through the 10th Amendment to the Constitution, gives that responsibility to the individual states. However, the US Constitution and the 14th Amendment provide the basis or origins for contemporary special education law through the *equal protection clause* and *due process rights* (Jacob & Hartshorne, 2007). The Supreme Court of the United States has become involved in the states' jurisdiction over public education when individuals' rights guaranteed under the Constitution have been violated (refer to Jacob & Hartshorne, 2007 for a comprehensive discussion of this topic.)

In 1977, the United States Congress implemented the Education for All Handicapped Children Act, originally enacted in 1975 as Public Law 94–142, which mandated the education of children with disabilities be within the *least restrictive environment* (LRE). Later, Public Law 94–142 was reauthorized under the IDEA (1990, 1997) and its most recent revision and reauthorization under IDEA (2004). These statutes form the basis for federal education law that govern special education and have direct impact on the professional practice of school psychology. Murdick, Gartin and Crabtree (2007) outline six basic principles of special education legislation. These require children with a disability to have: (1) the provision of a free appropriate public education (or *FAPE*) for all children regardless of disability; (2) the guarantee of a nondiscriminatory assessment to identify any potentially disabling conditions; (3) development of an individualized educational program or IEP to insure that the entitled instruction and services are provided to the student with a disability; (4) the right to be educated within the *LRE*, including opportunities to be in general education classes for as much of the time as is deemed appropriate; (5) the right to procedural due process should there be a disagreement between parties; and (6) the assurance of parental rights and procedural safeguards to insure parental participation in their child’s education.

The long-awaited final regulations for Part B of the IDEA 2004 law were released on August 3, 2006. The US Department of Education touts these regulations as designed to raise the achievement of students with disabilities. Similar to earlier legislation (e.g., No Child Left Behind), the revisions to IDEA 2004 “put the needs of students with disabilities front and center” (press release, August 3, 2006) by focusing on instruction, high standards for learning, and academic outcomes. US Secretary of Education, Margaret Spellings explained that among the issues that received the greatest revisions by the US Department of Education was Response to Intervention (RtI). This and other significant changes (i.e., redefinition of native language, use of medication and discipline) that impact the practice of school psychology will be discussed in this chapter. For additional information on IDEA 2004, the reader is referred to the US Department of Education’s interactive web` at <http://idea.ed.gov>.

Identification of Learning Disabilities and Response to Intervention

Students with specific learning disabilities (SLD) make up approximately half of the students who are determined to be eligible for special education (Zirkel, 2006). Prior to IDEA 2004, eligibility under SLD was usually determined by documenting that a significant discrepancy existed between the student’s intellectual abilities and his or her academic achievement. However, a great deal of research and best practice literature in the school psychology community recommends an alternative method of identifying a student with a SLD by determining how well he/she did or did not respond to increasingly intensive academic interventions.

The final IDEA 2004 regulations allowed for both these models to remain. The regulations specify that the State must not *require* the use a severe discrepancy between individual ability and achievement for determining whether a student demonstrates a SLD. Added to the federal regulations was the provision that a State “must permit the use of a process based on the child’s response to scientific, research-based intervention” (IDEA 2004, §300.307 [2]), and may also “permit the use of other alternative research-based procedures” (§300.307 [3]) to determine if a student is eligible for special education under the category of SLD. Following the release of IDEA 2004 regulations, state departments of education, in each individual state, have revised their “rules and regulations” to comply with IDEA 2004.

Under most RtI models, academic instruction is delivered using a three-tiered model of service delivery (i.e., universal, targeted, and intensive) (see *Blueprint III*, pp. 13, 14). The emphasis is on providing good academic instruction at the universal level, with ongoing progress monitoring using a timely, informative, and systematic approach. At the targeted level, instruction takes on a

small-group focus and finally at the intensive level, the focus is on the individual student's achievement. Determining eligibility for special education under the category of SLD using the RtI model would necessitate looking at the preponderance of the evidence collected throughout the systematic progress monitoring. Posny (2007), Director of the Office of Special Education Program (OSEP), and others indicate that, in the final analysis, the RtI data collection and progress-monitoring processes do not necessarily take the place of a comprehensive evaluation in order to determine eligibility.

The implications for the practice of school psychology point to an increased role for school psychologists to play at the universal, targeted, and intensive levels of academic instruction and in creating learning environments that promote mentally healthy youngsters. According to *Blueprint III* (p. 13), school psychologists should be "instructional consultants who assist parents and teachers to understand how students learn and what effective instruction looks like." In addition, school psychologists should be "mental health practitioners who can guide parents and teachers in learning how to create environments where children and youth feel protected and cared for as well as sufficiently self-confident to take risks and expand their competence" (p. 13).

Native Language

IDEA 2004 redefined the term *native language* within the context of assessing or evaluating children. Evaluations now are to be conducted in the language, "most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally ..." (300 CFR § 300.304[c] [1] [ii]). School psychologists need to consider how long the child has been educated in an English-speaking learning environment or classroom. On the one hand, the implication is that a child's native language not being English does not in all cases mandate that the assessment should be conducted in the child's native language. On the other hand, it also does not assume that if a child has completed the English as a Second Language (ESL) program that he or she gives up the right to an interpreter or to be assessed in his or her native language. The school psychologist must consider on a case-by-case basis which language would most likely yield accurate information. Choices may include English, other language, use of a nonverbal assessment, or other mode of communication.

Medication

Essentially, IDEA 2004 stipulates that a child cannot be barred from attending school because he or she is not taking his or her prescribed medication to address behavioral or emotional issues. Much of this controversy has centered on students' prescribed medications to treat attention-deficit-hyperactivity disorder (ADHD) and school personnel *overstepping their boundaries* between medical and educational practice by attempting to insist a child's school placement be contingent upon his or her taking prescribed medication. For school psychologists, this is clearly a call to utilize our skills and expertise in behavioral intervention planning. We need to comply with IDEA 2004 and *program for the student as he or she presents* by working with teachers, parents, and students to develop effective behavioral intervention plans.

Discipline

Federal regulations governing discipline of students with disabilities historically have been both controversial and complicated. Because students with behavioral disabilities are those youngsters who often display challenging behaviors, inherent in the disciplinary provisions of IDEA from its inception was protection from the overuse of suspension and expulsion that would exclude students

with disabilities from attending public schools, and thereby deprive a student with disabilities of FAPE. While a thorough discussion of IDEA 2004 disciplinary procedures for students with disabilities is beyond the scope of this chapter, some important changes in how disciplinary cases must be handled will be highlighted. For a more complete discussion, the reader is referred to Jacob and Hartshorne (2007).

Changes in the disciplinary procedures for students with disabilities under IDEA 2004 involve two important points: The *10-day rule* and *unique circumstances*. According to Jacob and Hartshorne citing 34 CFR § 300.530[b] [1]:

IDEA 2004 allows school officials to remove a child with a disability who violates a student conduct code from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than ten consecutive school days to the extent that those alternatives are applied to children without disabilities (pp. 260–261).

This 10-day removal can occur without a manifestation determination (MD) meeting being held. (IDEA 2004 also addresses the issue of *cumulative* days referring to those cumulative days of removal from school throughout the school year and whether it would be considered to be a change of placement.) Some confusion has occurred around the 10-day rule. It is important for school psychologists to be aware that the *10-day rule* (IDEA, 20 USC 1415[k] [4]) does not permit a change in placement for a student with disabilities without a MD meeting. This MD meeting must be held within ten school days of a disciplinary decision that results in a change of placement. Furthermore, schools now are allowed to consider any *unique circumstances* on a case-by-case basis when determining whether a change in placement for a student with a disability who violates a code of student conduct should occur (34 CFR § 300.530[a]). It suffices to say it would be beneficial for school psychologists to be thoroughly conversant in the portion of their state rules and regulations governing special education that deal with disciplining of students with disabilities. The authors would recommend that every school psychologist attends a professional development workshop or seminar on this topic, preferably conducted by the US Department of Education, your state department of education, or through NASP.

Family Educational Rights and Privacy Act of 1974

In addition to IDEA 2004, other federal legislation has influenced provision of educational services to students in the public schools. The Family Educational Rights and Privacy Act of 1974 (FERPA), also known as the Buckley Amendment, protects and safeguards the rights of parents by guaranteeing privacy and confidentiality of student records. Under FERPA, an educational agency that receives federal funds is required to develop policies and procedures that mandate written consent of the parent for releasing educational records. The exceptions to this requirement apply if the party with whom the records are shared has legitimate interest in the student, are officials of the school system in which the student is enrolled, are authorized officers of state or federal agencies, or are from certain judicial and law enforcement agencies (FERPA, 20 U.S.C. § 1232 g; 34 CFR Part 99). “Education records” are defined under FERPA as records, files, documents and other materials that contain information directly related to a student or are maintained by an educational agency (34 C.F.R. § 99.3). Jacob and Hartshorne have clarified that school districts must develop policies that adhere to FERPA rather than to Health Insurance Portability and Accountability Act (HIPAA).

Section 504 of the Rehabilitation Act of 1973 (PL 93–112)

Any discussion of federal regulations that are important for the practice of school psychology must include the Rehabilitation Act of 1973 (PL 93–112). Perhaps the most familiar part of this Act is its

Section 504, which specifically addresses the intent of this federal antidiscrimination regulation by prohibiting discrimination on the basis of a disability. Section 504 states that:

No otherwise qualified individual with a disability ... shall solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance (29 USC § 794).

As civil rights legislation, all students within a school receiving federal financial assistance have protection against antidiscriminatory practices in the areas of programming and physical accessibility.

A disability (referred to as handicap) under Section 504 is defined more broadly than a disability under IDEA 2004. According to Section 504, a handicap is defined as a *physical or mental impairment* that interferes with a major life activity including, among other areas, caring for one's self, walking, seeing, hearing, speaking, breathing, or learning (34 CFR § 104.3). Thus any student who has a physical or mental impairment that interferes with learning (or other areas) would be considered to be handicapped under Section 504. If so, these students are entitled to reasonable accommodations, which are typically stipulated in a 504 Accommodation Plan. For school psychologists working in public schools, best practice would suggest that a 504 Accommodation Plan is the first line of defense for accommodating youngster facing learning and behavioral challenges (e.g., ADHD).

The Americans with Disabilities Act of 1990

The Americans with Disabilities Act of 1990 (ADA) is a far-reaching legislation that sets a national agenda for elimination of discrimination against individuals with disabilities. While it impacts schools, it also guarantees equal opportunity to individuals with disabilities in employment, public services, transportation, state and local government services, and telecommunications (PL 101–336). According to Jacob and Hartshorne, Title II, Subtitle A of the ADA applies directly to public schools. It defines a *qualified individual with a disability* who may require “reasonable modifications of rules, policies, or practices” including the “removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services” to participate in programs and activities in public schools (28 C.F.R. § 35.104).

The No Child Left Behind Act of 2001

President George W. Bush enacted the No Child Left Behind Act of 2001 (NCLB) in response to his administration's concern that too many of our nation's neediest children are being “left behind.” The NCLB Act reauthorized the Elementary and Secondary Education Act of 1965 (ESEA) and called for improvement in the performance of America's elementary and secondary schools through increased accountability for States, school districts and schools, greater parental choice, and a stronger emphasis on reading, especially for children in kindergarten through third grade.

For school psychologists, practitioners working in the public school since 2001, NCLB translated into increased emphasis on school-wide annual testing, academic progress measured by “adequate yearly progress,” annual state report cards, highly qualified teachers, the Reading First program, and some funding changes. The ultimate goal is that by the 2013–2014 school year, states must bring all students up to the “proficient” level on state tests.

Schaffer v. Weast

Some would argue that the US Supreme Court decision *Schaffer v. Weast* 546 US (2005) is the most significant case in the last 10 years in terms of impacting special education litigation. *Schaffer v. Weast*

deals with the issue of which party (parent or school district) in a due process special education hearing must bear the *burden of persuasion*. Jacob and Hartshorne state that in the *Schaffer v. Weast* case, “the court held that the burden of persuasion in an administrative hearing challenging a child’s IEP falls on the party seeking relief, whether it be the child with a disability or the school.” Comegno (2006) suggests that this decision addresses the issue of *fairness* in special education due process litigation, i.e., that prior to this decision, the burden of proof was assigned to the school district to defend their actions, and school districts because of their natural advantages of resources were considered guilty until proven innocent. In this decision, Justice O’Connor wrote that the natural advantage of resources is addressed elsewhere ... and out of fairness, the party bringing the claim has the responsibility to show the burden of proof.

Ethical Guidelines

The NASP’ (2010) *Principles for Professional Ethics* (NASP-PPE) are ethical guidelines that specifically address the practice of school psychology. By joining NASP, each member agrees to abide by these guidelines in their professional interaction with students, parents, families, teachers, other school personnel, fellow school psychologists, and other consumers of school psychological services. The APA’s (2002) *Ethical Principles of Psychologists and Code of Conduct* have been developed for psychologists trained in diverse specialty areas and whose work settings including private practice, industry, hospitals and clinics, schools, university teaching, and research. By virtue of its specificity to the practice of school psychology, the NASP-PPE are typically those ethical guidelines most school psychologists refer to and use as a resource to guide their practice of school psychology.

There are advantages in being familiar with both NASP’s *Principles for Professional Ethics* and APA’s *Ethical Principles of Psychologists and Code of Conduct*. According to Jacob (2005), a school psychologist practitioner with a broad knowledge base in ethical principles and standards is more likely to anticipate and prevent ethical problems from arising. Moreover, this school psychologist is more likely to make ethically and legally sound choices when challenging situations occur.

A brief review of the NASP-PPE finds that its underlying principles are twofold: (a) school psychologists act as advocates for their students/clients; and (b) at the very least, school psychologist do no harm (NASP-PPE, Introduction). The NASP-PPE were developed to provide guidelines for school psychologist practitioners employed in schools and focus on protecting the well-being of students, parents, teachers, and other constituent groups. Among those people listed, children are the top priority for protection. School psychologists are obligated ethically to address concerns for the rights and welfare of children. The NASP-PPE addresses four broad areas: (a) professional competence; (b) professional relationships; (c) professional practices; and (d) professional practice setting. Each of these areas will be discussed below.

Professional Competence

This section of the NASP-PPE stipulates that school psychologists engage only in those practices for which they are qualified by virtue of their training. In order to update their skills and remain current in their profession, school psychologists engage in continuing professional development. Furthermore, school psychologists refrain from any activity in which their personal problems might interfere with the professional effectiveness. Finally, school psychologists assume the responsibility to be knowledgeable about the *Principles* and to apply them; ignorance of the ethical code is no excuse.

Professional Relationships

The NASP-PPE states that school psychologists are committed to promoting improvement in the quality of life of children, their families and the school community. School psychologists respect diversity in all persons without regard to their disabilities, race, ethnicity, gender, sexual orientation or religion. Dual relationships are to be avoided because engaging in both a personal and business relationship concurrently could cloud one's judgment. School psychologists try to informally resolve any concerns about their colleagues' professional conduct but, if necessary, consult state and national ethics committees for assistance. An extremely important area for school psychologists is that they are knowledgeable about, and honor confidentiality; they understand the limits of confidentiality, e.g., *informed consent* and *need to know* principles. School psychologists maintain the dignity and integrity of children and other clients and understand their responsibilities when interacting with parents, legal guardian, and surrogates. The area of professional relationships also extends to principles involving the community, other professionals, trainees and interns, and school psychology faculty.

Professional Practice – General Principles

NASP-PPE requires school psychologists to serve as advocates for children, always remembering that their primary client is the child. When delivering services, school psychologists are knowledgeable about the school or other organization and attempt to become integral members of their school. In instances when conflicted loyalties might occur, school psychologists clearly communicate their roles in advance. In the role of performing assessment and developing interventions, school psychologists remain knowledgeable regarding current practices in the areas of assessment, direct and indirect intervention, and counseling. NASP-PPE provides guidelines in the areas of reporting data and conference results in terms of using understandable language, and avoiding the use of unedited computerized reports as their own. Alterations of previously released reports should be done only by the author of that report. School psychologists use materials and technology responsibly respecting test security and assume responsibility for electronically transmitted information. Finally, school psychologists engage in ethical behavior with regard to research, publications, and presentations; they do not plagiarize or fabricate data and accurately reflect contributions of authors in publications and presentations.

Professional Practice Settings – Independent Practice

Among the areas addressed in this section of NASP-PPE are ethical guidelines regarding school psychologists dually employed in independent practice and school districts. School psychologists act responsibly and ethically in these situations, e.g., they do not accept remuneration from clients who are entitled to the same service provided by the school district employing the school psychologist. Further, they are obligated to inform the child's parent of the availability of services in the public schools. When school psychologists are dually employed, they do not use materials in their independent setting that belong to the district unless approved in advance by their employer.

The reader should be aware that the 2010 version of the NASP Principles for Professional Ethics has been extensively revised. It is organized around these four broad ethical themes:

- Respecting the Dignity and Rights of All Persons
- Professional Competence and Responsibility
- Honesty and Integrity in Professional Relationships
- Responsibility to Schools, Families, Communities, the Profession, and Society

The four ethical themes subsume 17 ethical principles each of which is further articulated by multiple specific standards of conduct.

Culturally Competent Practice

Both legal and ethical guidelines described for school psychologists in this chapter address the issue of diversity in a variety of ways. The importance of developing cultural competence as a school psychologist is crucial to developing ethically and legally sound practices. Williams (2007) defines culturally competent practices as behaviors and policies that enable school psychologists to work effectively to address the social, behavioral, mental health, and educational needs of diverse students from various cultures. According to the US Department of Education (2004), 5.5 million English language learners are attending US public schools and speak more than 400 different languages. By the year 2040, no one ethnic or racial group will make up a majority of the US school-age population (National Association of School Boards of Education, 2002). It is safe to say that students who are attending US schools are becoming increasingly diverse. It is important for school psychologists to develop and continually upgrade their skills by becoming *cross cultural helpers* in order to better assist students from diverse backgrounds who may be experiencing problems.

School psychologists can become more culturally competent by first doing a self-appraisal of their own cultural experiences, so as to understand themselves and the role that culture plays in their own lives. It is also helpful for school psychologists to assess their own multicultural competencies and, if necessary, increase them. Once the cultural groups represented in a school are identified, a school psychologist can become more knowledgeable about the customs and values of the representative groups. School psychologists should interact with students and families from diverse backgrounds to assist them in becoming more familiar with the school's culture. It is helpful to identify other school-based personnel and community-based resources that have expertise to serve as consultants or resources to various cultural groups. School psychologists benefit from expanding their knowledge of best practices in providing educational services to English Language Learners.

In areas of ethics and law, school psychologists should promote fairness and nondiscrimination in providing school-based services and should champion the laws that prohibit discrimination and harassment in schools.

Ethical and Legal Decision-Making Model

School psychologists who are knowledgeable about educational law and codes of ethics (e.g., NASP's *Principles of Professional Ethics* and APA's *Ethical Principles of Psychologists and Code of Conduct*) and use these principles to guide their practice are more likely to engage in sound professional practice. School psychologists who actively engage in professional development and upgrade their skills by becoming more knowledgeable about evidence-based practices will become more effective in their service delivery. School psychologists who read NASP's *Best Practices in School Psychology-IV*, NASP's position papers, and other school psychology professional literature will become more knowledgeable and contemporary in their role as practitioners.

Consider again the analogy of educational law, professional ethics and standards as the *scaffolding* or supporting framework that guides the practice of school psychology. In order to implement the research-to-practice connection, the authors recommend the use of a legal and ethical decision-making model to link these areas to the practice of school psychology. If this ethical and legal problem-solving model is followed, the decision that results is more likely to be viewed as

Table 2.1 Ethical and legal decision-making model

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1. *Describe the problem situation*
The first step is to focus on available information and attempt to gather and objectively state the issues or controversies. Breaking down complex, sometimes emotionally-charged situations into clear, behavioral statements is helpful
 2. *Define the potential ethical-legal issues involved*
Enumerate the ethical and legal issues that are in question. Again, state these as clearly and accurately as possible, without bias or exaggeration
 3. *Consult available ethical-legal guidelines*
Research the issues in question using reference sources, e.g., NASP's *Principles for Professional Ethics*, IDEA 2004, state guidelines governing special education, textbooks in ethics and legal issues in school psychology, e.g., Jacob and Hartshorne's *Ethics and Law for School Psychologists*, 5th Edition, NASP's *Best Practices in School Psychology IV*, job descriptions, school board policies and other appropriate sources
 4. *Consult with supervisors and colleagues*
Talk with your supervisor and trusted colleagues who are familiar with the legal and ethical guidelines that apply to school psychology. On a need-to-know basis, share information specifically about the issues you have identified. Brainstorm possible alternatives and consequences and seek input from those whose opinions you value
 5. *Evaluate the rights, responsibilities, and welfare of all affected parties*
Look at the big picture, rather than focusing on the isolated details of the controversy. Consider the implications for students, families, teachers, administrators, other school personnel and yourself. How will the various alternative courses of action affect each party involved? Remember two basic assumptions underlying NASP's *Principles for Professional Ethics*: (1) school psychologists act as advocates for their students/clients, and (2) at the very least, school psychologists will do no harm
 6. *Consider alternative solutions and consequences of making each decision*
Carefully evaluate in a step-by-step manner how each alternative solution will impact the involved parties. Who and how will they be affected? What are the positive and negative outcomes of each alternative? Weigh the pros and cons. Step back and carefully consider the information you have gathered
 7. *Make the decision and take responsibility for it*
Once all the other steps are completed, make a decision that is consistent with ethical and legal guidelines and one that you feel confident is the best choice. Take responsibility for following through on that decision, attend to the details and attempt to bring closure to the scenario
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Note: Adapted from Koocher and Keith-Spiegel (1998, In Williams, Armistead, and Jacob (in press))

ethically and legally appropriate. By applying the principles discussed in this chapter in a logical and reasoned manner, it is more likely that the reasoned outcome will be consistent with best practice. Refer to Table 2.1 for the steps in the ethical and legal decision-making model.

Explicated Cases to Illustrate Use of the Ethical and Legal Decision-Making Model

Below are four examples of ethical and legal dilemmas that illustrate the use of the decision-making model. In most cases, the analyzes followed the seven-step decision-making model because the authors believe that many ethical and legal dilemmas encountered by school psychologists are complex and require a degree of deliberation and consultation in order to arrive at an appropriate decision. However, some dilemmas may be handled with a streamlined approach to problem solving, because once legal and ethical principles are consulted, the decision is rather straightforward and arrived at more expeditiously. In either case, the ethical and legal decision-making model serves as the basic framework to approach the problem-solving process.

The first case depicts a dilemma for the school psychologist when Sam, a fifth grader diagnosed with ADHD, discontinues his medication at his father's insistence. Prior to this, Sam was functioning well with a combination of classroom modifications, a behavior management plan and medication prescribed by his physician.

Case 1: Sam Boswell

Samuel Boswell is a fifth grader at my school. Sam's parents are divorced and have joint custody. Until recently, he lived with his mother most of the time. Two years ago, our Student Support Team conducted a Section 504 evaluation for Samuel due to significant behavior problems and frequent suspensions from school. The results suggested that impulsive behaviors characteristic of ADHD were contributing to Samuel's problems. The Team, which included Sam's mother, developed a 504 Plan that recommended classroom accommodations, parent collaboration with the school psychologist, participation in an ADHD counseling/support group, an individual behavior management plan, and referral for a medical evaluation and possible treatment. All the interventions were implemented and proved helpful. Samuel's pediatrician reviewed the 504 evaluation report, interviewed him and his mother, and decided to try a stimulant medication. After a few days on medication, Sam's behavior improved dramatically with a real reduction in impulsivity. Sam also began working harder on his behavior plan and participated more effectively in the counseling group. Sam's mother began reading some materials I provided and took the lead in communicating with his teacher and monitoring his response to medication. I was very pleased with the resolution of this case and followed up periodically to see how Sam was doing.

Recently, Sam began living with his father because his mother was sent overseas on a military assignment. Mr. Boswell soon began protesting Sam's medical expenses and insisting that Sam did not need to be on a stimulant. About 3 weeks ago, Sam ran out of medication and his father decided not to refill the prescription. Almost immediately, Sam's teacher noticed a major change in his behavior. He began talking back and arguing with her about class work. His work completion and class participation deteriorated. Impulsive comments and actions resulted in escalating peer conflicts. Finally, a pushing incident led to his hitting another student, an office referral, and a 5-day out-of-school suspension.

After the suspension, Mr. Boswell accompanied him back to school and met with the principal, Mr. Johnson, and me. Mr. Johnson reviewed the recent changes in Sam's behavior and suggested that discontinuing his medication may have been a factor. Mr. Boswell went ballistic! He exclaimed that he had heard on talk radio that Federal law now prohibits schools from requiring stimulant drugs for a student to attend school. He stormed out of the meeting shouting something about, "over my dead body!" Mr. Johnson and I discussed the situation and both remembered reading that IDEA 2004 indeed has a provision pertaining to required medication. Mr. Johnson decided that we should not try to discuss medication again lest we get in some sort of legal trouble. I went back to my office and decided to think through this situation in a systematic fashion using the seven-step decision-making model advised in this chapter.

1. *Describe the Problem Situation.* As a psychologist, the most troublesome aspect of this situation for me was that medical treatment – along with other interventions – had proven very effective for Sam. However, Federal law, apparently, prevented me from advocating for Sam's continued treatment. I decided to explore this further.
2. & 3. *Define the Potential Ethical–Legal Issues. Consult Available Ethical–Legal Guidelines.* It was immediately apparent that this was one of those ethical dilemmas in which my various clients – child, school, and parents – seem to have conflicting needs and interests. Sam's principal and teacher have an interest in managing his behavior to enhance his learning and minimize the effects of his disruptive behavior on the learning of his peers. They had previously seen the benefits of medication for Sam and would like to see it reinstated. However, Sam's parents have the right to determine medical treatment for their child.

A quick internet search at www.idea.ed.gov showed that indeed there is a provision in IDEA 2004 (citation) that states, “(A) In general – The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving

an evaluation under subsection (a) or (c) of section 614, or receiving services under this title.” {Section 612 (a) (25)} However, I found that Section 612 (a) (25) goes further and states, “(B) Rule of construction – Nothing in subparagraph (A) shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student’s academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under paragraph (3).”

On my state’s Department of Public Education web site, I found a memo clarifying the state’s interpretation of the preceding Federal regulation. In part, it said:

Personnel may not state or suggest that a student with a disability (or a suspected disability) must obtain a prescribed medication that is covered by the Controlled Substances Act before the student may attend school, return to school. However, IDEA 2004 explicitly allows personnel to consult with parents or guardians about their observations of a student’s academic, functional, and behavioral performance in school, or regarding the need for an evaluation for special education services. However, these observations must be concrete and fact-based, and should not include opinions about how a particular medication may or could affect a student.

4. *Consult with Supervisors and Colleagues.* I was beginning to get some possible ideas about how to proceed but I decided to email the school district attorney for advice. I briefly described the situation and asked if IDEA 2004 prohibited a school psychologist from discussing possible medical treatments – including stimulant therapy – with a parent as long as I did not give the impression that the school was requiring stimulant medication. The attorney said that her opinion was that I could discuss medical treatment options with the parent. However, she pointed out that future court decisions and regulatory changes could influence her opinion.
5. & 6. *Evaluate the rights, responsibilities, and welfare of all affected parties. Consider alternative solutions, and the consequences of making each decision.* After my review of these legal and ethical guidelines, I concluded that I could advocate for a comprehensive intervention program for Sam without specifically recommending medication for him. I could even give Mr. Boswell a handout about the American Academy of Pediatrics-recommended protocol for treating ADHD, which includes a medication component (www.aap.org). However, I would have to respect Mr. Boswell’s right to determine Sam’s medical treatment. I would also need to help my colleagues at school to avoid any violation of IDEA 2004 and our state regulations about mandating medication. I also had some ideas about encouraging them that we could help Sam with more intensive behavioral interventions.
7. *Make the Decision and Take Responsibility for it.* I shared my thinking about Sam’s situation with the Principal and he agreed to support my recommended actions. First, I contacted Mr. Boswell and asked to meet with him at his office. Briefly, the meeting went well. I assured Mr. Boswell that, as a professional school psychologist, I had Sam’s well-being as my first priority but respected his rights as the parent. He reiterated his opposition to medication because of its expense. I acknowledged that medical care is expensive but shared with him some handouts about ADHD and encouraged him to consult with Sam’s pediatrician about his options. I reassured him that school personnel would not pressure him about any particular medical treatment. Finally, I invited him to a meeting of the Student Support Team at which we planned to review the accommodations, interventions, and modifications specified in Sam’s 504 plan.

At the Support Team meeting the following week, Mr. Boswell shared that he had an appointment with Sam’s doctor and would consider all his options but asserted that, “The school isn’t going to tell me what to do!” I quickly assured him we had no intention of doing so. However, I gave him a pamphlet about our state Children’s Health Insurance Program in case he wanted to look into it. The rest of the meeting went well and we secured Mr. Boswell’s support for our behavioral interventions and counseling program.

Several months later, Mr. Boswell did reinstate Sam's medication regime but told me it was his wife's idea. He still didn't think Sam needed it.

The second case presents a situation whereby the special education director is expediting the change of placement for a student with disabilities who is considered a troublemaker. The director has neglected to follow the procedures under IDEA 2004.

Case 2: Expedited Special Education

The school psychologists in Udonia Public Schools began hearing about an increasing number of what were called "administrative" changes of placement. That is, a principal wanted to get a troublesome student – or one with low test scores – out of his or her school. In collusion with the special education director, the principal was able to arrange a quick change of placement to another program, usually a more restrictive one in another building. Then, the secretary in the special education office called a parent to get verbal consent and mailed all the forms for signatures. When the school psychologists in the district questioned these practices, the special education director explained the need to keep principals happy – to be "team players," as he put it. He also insisted that Udonia needed to streamline procedures and reduce meeting time and paperwork devoted to routine matters such as changes of placement. He encouraged the school psychologists that sometimes they should just, "go along to get along."

Analysis: Although the Director's goal of reducing the amount of paperwork and number of meetings is admirable, these streamlined changes of placement are problematic. They do not meet the legal requirements of IDEA 2004 (citation), which specify that special education placement decisions must be made by an Individualized Education Program (IEP) Team consisting of:

- The parents of a student with a disability
- When appropriate, at least one regular education teacher of the student
- At least one special education teacher of the student
- A representative of the local education agency (who must meet certain requirements)
- An individual who can interpret the instructional implications of evaluation results
- At the discretion of the parents or district, other individuals who have knowledge or expertise about the student
- When appropriate, the student with a disability.

In addition to the legal requirements of IDEA, school psychologists are compelled by their own ethical standards to attempt to influence this practice. NASP's *Principles for Professional Ethics* (NASP, 2000) require that, "school psychologists consider children and other clients to be their primary responsibility, acting as advocates for their rights and welfare. If conflicts of interest between clients are present, the school psychologist supports conclusions that are in the best interest of the child" (NASP-PPE, IV, A, #2). The *Principles* also require that school psychologists support parental participation in decision making about special education and psychological services and respect their right to object to those services (NASP-PPE, III, C, #s 3–5).

If the Udonia school psychologists carefully examine IDEA 2004, they will find provisions that they could use to help their district streamline procedures without violating student and parent rights. For example, Section 1414 (f) permits certain meetings, including IEP and placement meetings, to be held by conference call or videoconference. In addition, Section 1414 (d) (1) (C) permits parents and the district to agree that certain members of the IEP Team do not need to attend a meeting if the Team members' curriculum or service area will not be discussed or if the members submit written reports in advance. Finally, it is even possible to change an IEP without convening a meeting if the parents and school agree to do so by means of a written document. The Udonia school psychologists should offer to investigate these and other provisions of IDEA 2004 and consult with the

district's attorney. This could enable the district to make their procedures more efficient as well as comply with relevant legal and ethical guidelines.

The third dilemma deals with a school psychologist attempting to resolve an ethical issue informally by discussing his concerns about a fellow school psychologist practice.

Case 3: Making an Ethical/Professional Practice Complaint

Paul has been practicing school psychology for about 4 years. While completing reevaluations, he began getting very different IQ scores from those obtained previously by one of his colleagues, Dr. Solkk. He began keeping some notes and found that about half the time, the full-scale scores were more than ten points apart, and his scores were almost always lower than his colleague's. In examining protocols, he found many errors in scoring in which Dr. Solkk did not query when necessary and was overly generous in scoring. When Paul reviewed the psychological reports from these evaluations, he found additional areas of concern. The reports often overreached in suggesting diagnoses and often misinterpreted scores. He even found several instances of students being categorized as learning disabled in the wrong academic areas. Then one day, Paul overheard Dr. Solkk administering an IQ test in the next office. On a digit memory subtest, he seemed to be "chunking" digits and using too much voice inflection. His presentation of digits was far from the usual one per second. Dr. Solkk even left the office during one subtest and left the student working alone while he took a brief call on his cell phone.

Paul spoke with his colleague after this incident and tried to make some suggestions about test administration. Dr. Solkk listened but dismissed his concerns as "picky." When Paul pointed out the problems he had found with some of Dr. Solkk's psychological reports, his colleague became upset and told Paul he had too much time on his hands and should find something else to do rather than critique old psych reports.

Paul continued to be concerned, so he met with the district Supervisor of Student Services (who was not a school psychologist). Paul mentioned his ethical obligation to address Dr. Solkk's assessment practices and tried to frame his actions as supportive of good practice rather than critical of his colleague. Nevertheless, the supervisor reproached Paul for criticizing Dr. Solkk, who was more experienced, and for Paul's not being a "team player." Paul is not sure whether he has fulfilled his ethical obligations and whether he should make any further complaints.

Analysis: Paul clearly understands his professional obligation to attempt to resolve unethical and unprofessional practices. He probably understands that one of the hallmarks of any profession is its efforts to enforce its own ethical codes. In fact, attempting to resolve suspected unethical behavior is actually required by the NASP *Ethical Principles* which make this obligation quite clear.

NASP 2000 Ethical Principle III.A.8: School psychologists attempt to resolve suspected detrimental or unethical practices on an informal level. If informal efforts are not productive, the appropriate professional organization is contacted for assistance, and procedures established for questioning ethical practice are followed:

1. The filing of an ethical complaint is a serious matter. It is intended to improve the behavior of a colleague that is harmful to the profession and/or the public. Therefore, school psychologists make every effort to discuss the ethical principles with other professionals who may be in violation.
2. School psychologists enter into the complaint process thoughtfully and with concern for the well-being of all parties involved. They do not file or encourage the filing of an ethics complaint that is frivolous or motivated by revenge.
3. Some situations may be particularly difficult to analyze from an ethical perspective. School psychologists consult ethical standards from knowledgeable, experienced school psychologists, and relevant state/national associations to ascertain an appropriate course of action.

Paul's actions thus far comprise reasonable efforts to informally resolve the apparent ethical and professional practice violations. Despite his being rebuffed by Dr. Solkk and his supervisor, it is

possible that his providing feedback about careless assessment practices will result in improvements. An additional informal step that Paul could take would be offering to participate in peer “supervision” with Dr. Solkk. He could point out that all practitioners benefit from participating in supervision and his willingness to assist his colleague – and accept supervision himself – might be viewed more positively than his complaints were.

If Dr. Solkk’s assessment practices do not improve, Paul will need to decide whether the problem is serious enough to take the next step and report the matter to a professional association ethics committee. Before doing so, Paul is advised to consult with a trusted colleague. Many state school psychology associations have an ethics and professional practices chairperson or committee. Some of them attempt to resolve problems through education and mediation without fixing blame. Paul could approach his state association first and then decide whether to make a complaint with the national APA or NASP ethics committees. Paul must decide how far he is willing to go in attempting to resolve the matter. Ultimately, his decision should be based on his appraisal of the effects of Dr. Solkk’s practices on his clients.

The fourth and final case involves a parent’s request to see copies of the school psychologist’s counseling notes from his sessions with her son.

Confidentiality of Counseling Notes

1. *Description of the Problem Situation.* George Benson provided weekly individual and group counseling to a second grade student named Robby as specified in his IEP for special education services related to an emotional disturbance. His mother requested a meeting to discuss his progress. Because of prior conflicts between the mother and the school district, Dr. Benson asked the special education director to join his meeting with the mother. As the meeting began, he reminded the mother that she had previously signed a counseling consent form that explained the importance of confidentiality in a counseling relationship. The form stated that Dr. Benson would be sharing general information about the student’s progress with the parents, but that the details of sessions would remain confidential. Dr. Benson noted that he had reached an agreement with Robby regarding this limit to confidentiality. Dr. Benson described Robby’s current goals, the format of the counseling sessions, typical activities, and the student’s responsiveness and progress. In addition, the psychologist showed the mother a worksheet from a recent session. Citing her rights, the mother demanded copies of the worksheet and all other counseling notes in Robby’s file. Unsure of his ethical and legal standing, Dr. Benson asked for time to consider the situation before deciding what to do.
2. *Defining the Potential Ethical–Legal Issues.* Several ethical and professional practice issues are represented by this case. They involve confidentiality when providing direct services to students as well as parents’ rights to inspect educational records and rights to determine intervention methods. George is to be commended for the manner in which he handled the confidentiality of his counseling sessions with Robby. He is probably aware that students who are minors actually have no legal right to confidentiality independent of their parents. Therefore it is quite important, prior to the start of counseling, to come to an agreement with parents, so that a limited assurance of confidentiality can be extended to students as part of establishing effective counseling relationships (Jacob & Hartshorne, 2007). Usually those limitations include situations in which, (1) a student requests disclosure of confidential information to others, (2) situations involving danger to the student or others, or (3) when the school psychologist is compelled to testify in court (Hummel, Talbutt, & Alexander, 1985). NASP’s *Principles for Professional Ethics* (2000) recognizes these limitations to confidentiality and state that school psychologists, “secure continuing parental involvement by a frank and prompt reporting to the parent of findings and progress that conforms to the limits of previously determined confidentiality” (p. 21).

3. *Consulting Available Ethical-Legal Guidelines.* George was quite familiar with the ethical and legal guidelines regarding confidentiality. However, he was not so familiar with the legal issues related to student records. In an internet search at the U.S. Department of Education's web site (www.ed.gov), George learned that the FERPA (20 U.S.C. § 1232 g; 34 CFR Part 99) is a Federal law that protects the privacy of student educational records. It also gives parents certain rights regarding those records. Parents have the right to inspect and review their children's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as having to travel great distance, it is not possible for them to review the records. Parents may also request that schools correct records, which they believe to be inaccurate or misleading. FERPA's definition of educational records is broad and includes any records maintained by a school that directly relate to a student. However, the definition does exclude private records, "that are kept in the sole possession of the maker, are only used as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record" (34 C.F.R. § 99.3). These private notes are intended to jog a practitioner's memory regarding counseling sessions and can include material intended to be completely confidential. If such records are shared with anyone other than a substitute (as in the case of a substitute therapist filling in for the primary therapist), then they become part of a student's educational record and are subject to FERPA's provisions regarding disclosure.
4. *Consulting with Supervisors and Colleagues.* George decided to talk with his special education director before deciding what to do about the mother's request. George pointed out that he did not really maintain confidential notes about student's progress. But he did have a counseling folder for each student with whom he had worked in which he filed completed worksheets and made comments about completed and upcoming activities. The Director agreed with George that these notes and work samples could probably be considered sole possession records and were not part of Robby's educational record. However, she asked whether it might be possible that George was concerned that the parent's interest in his counseling materials reflected her desire to criticize and/or direct the type of counseling techniques he uses with Robby. She pointed out that if this occurred, George could diplomatically remind the mother that under IDEA, courts have generally determined that parents do not have the right to determine specific teaching or counseling methods. He only needed to provide the mother with general information about his methods and assure her that they are evidence based. Although she could withdraw consent for counseling, she would have no legal grounds to determine his counseling methods (Jacob, personal communication).

During the meeting, George recalled that there is a NASP ethical standard about collaborating with parents regarding treatment plans. Back in his office, he looked it up and found that Principle III.C.5 states that school psychologists, "discuss with parents the recommendations and plans for assisting their children. The discussion includes alternatives associated with each set of plans which show respect for the ethnic/cultural values of the family" (NASP, 2000, p. 21).

5. & 6. *Evaluating the rights, responsibilities and welfare of all affected parties. Considering alternative solutions, and the consequences of making each decision.* As George reflected on what he had learned, his first inclination was to reject the mother's request to review Robby's counseling records. He reasoned that his counseling records *were* private and the mother did not really have any right to see them. Then he started thinking about the tendency that school personnel often have to "circle the wagons" when parents complain and make demands and perhaps a little openness would reduce the existing alienation. He considered that counseling was benefiting Robby and he did not want his mother to withdraw consent. He also reasoned that if he could not explain and defend his counseling methods, then maybe he should reconsider why he was using them. The worse thing that could happen by being open with Robby's

mother would be that she would be critical of his therapeutic approaches. But if he was not open, he might not be able to help Robby in the future.

7. *Making the Decision and Taking Responsibility For It.* George decided to meet with Robby and discuss the situation with him. Robby seemed to understand and agree that there was nothing in his counseling folder that was embarrassing to him and he stated that it would be okay to share it with his mother. Several days later, George met with Robby's mother and went through the folder with her. He explained his cognitive-behavioral methods and how he was trying to help Robby make changes in his thinking patterns as well as in his behavior at school. To his surprise, Robby's mother made some positive comments and asked how she could help at home. She apologized for being so demanding at the previous meeting and promised to keep in touch (Scenario adapted from Williams, Armistead, & Jacob, 2008).

Next Steps

This chapter has shown how legal, ethical and professional practice guidelines and standards provide a “scaffold” for one's practice of school psychology. However, it is evident that with multiple clients – children, parents, teachers, administrators, etc. – professional judgments must be made. It is also common for school psychologists to encounter competing demands made by their ethical standards as compared to laws and regulations, and feel the “pull” of those demands (Jacob-Timm, 1999). So, the chapter has provided an ethical problem-solving model with examples of its use in resolving ethical dilemmas. It should be evident that practicing school psychology in an ethically, legally, and professionally responsible manner is a career-long challenge. To become competent at professional problem solving requires continual attention to professional development, networking, mentoring, and supervision. Because there are skills involved, it may get easier with experience, but it will be a career-long challenge. To relatively new practitioners, the authors offer the following ten suggestions for preventing problems in their practices and beginning to acquire expert ethical and professional practice problem-solving skills.

1. *Join a professional association.* If you have not already done so, join your state school psychology professional association and get involved in some way. This will provide an immediate source of professional development opportunities. It will also give you access to networking and informal supervision with your colleagues. Many state associations also have ethical and professional practices committees with whom members can consult when they encounter problems in their practice. These committees may also advocate for best practices within your state and present professional development programs for members.
2. *Know the rules.* As soon as possible, join a national association – the NASP, or the APA – whichever one that best meets your practice needs. These organizations also advocate for best practices, are a source of professional development, and have ethics committees to assist members. Additional information regarding professional association involvement is provided in Chap. 15.

Most practitioners receive an introduction to legal, ethical, and professional practice guidelines during their graduate education programs. As a practitioner, a challenge is accessing that information when you have a need to know something. Finding and keeping up with “the law” can be challenging because the law is changing all the time. Many school psychologists find Jacob and Hartshorne (2007) to be an excellent resource. In addition, two web resources are helpful. To access information about specific cases, try www.findlaw.com. For specific information about special education law, try www.wrightslaw.com. It is also important to be able to quickly access core ethical and professional practice reference materials. You will want to have copies of NASP's *Principles for Professional Ethics* (2000) and *Guidelines for the*

Provision of School Psychological Services (2000). These are published as NASP's *Professional Conduct Manual* (2000). A free pdf version may be downloaded from www.nasponline.org. APA's *Ethical Principles for Psychologists and Code of Conduct* may be downloaded from www.apa.org.

All practitioners involved in special education will need ready access to federal and state guidelines for provision of special education services. A convenient way to review the current 2004 version of the federal Individuals with Disabilities Act is at www.idea.ed.gov/. Special education guidelines for most states are available online as well.

Finally, a new practitioner must learn school district rules – both written and unwritten. Be sure to get a thorough orientation to your new district and schools and get to know the key administrators. Get copies of employee handbooks, policy documents, and learn about procedures. And be observant for and ask your colleagues about unwritten rules.

3. *Get backup.* Professional supervisors are an excellent source of backup, and supervision has long been regarded as essential for school psychologists' professional development (Harvey & Struzziero, 2000). NASP and APA professional practice standards both emphasize the value of supervision and encourage employers to provide it. Unfortunately, few school psychologists actually receive professional supervision. In one survey, less than a third of the respondents who had less than 3 years experience reported at least an hour of supervision each month. Questions were also raised about the effectiveness of supervision that respondents did receive (Ross & Goh, 1993).

There is another way to think about supervision that deemphasizes the hierarchical qualities that may be associated with it. One such definition is: "an interpersonal interaction between two or more individuals for the purpose of sharing knowledge, assessing professional competencies, and providing objective feedback with the terminal goals of developing new competencies, facilitating effective delivery of psychological services, and maintaining professional competencies" (McIntosh & Phelps, 2000, pp. 33, 34). This type of supervision can occur within mentoring or other collegial relationships. If your district does not assign you to a mentor, the authors encourage you to develop a mentoring relationship with a more experienced colleague yourself.

Finally, we suggest you to join or develop a peer consultation or peer support group. (Zins & Murphy, 1996) found that about 64% of the school psychologists they surveyed had participated in a peer support group. Benefits reported by a majority included improved skills, expanded range of services offered, increased professional enthusiasm, more involvement in professional associations, and a better professional knowledge base. It seems apparent that such a group could also be an important source of social support for coping with the stress of what will be a challenging occupation.

4. *Keep confidences.* Get off to a good start in your new practice with regard to confidentiality. There are many nuances about confidentiality that your graduate education program may not have emphasized. One way to begin appreciating these nuances is to study cases that illustrate ethical dilemmas. Such cases are often part of district or professional association CPD programs. A collection of cases illustrating all of the NASP ethical standards is also available (Williams, Armistead, & Jacob, 2008).

Be sure you develop a standard approach to discussing confidentiality (and the limits thereof) with students. Develop a counseling permission form that discusses the need for confidentiality, what information will be shared with parents, and any limitations to confidentiality.

Many school psychologists have difficulty with limiting access to confidential information to those individuals who have authorized access or have a need to know. Be sure you understand ethical principles in this area and develop practices that are consistent with them as well as with district policies. Be sure to think about safeguarding both paper as well as digital records.

5. *Set high standards.* Setting high standards for professional behavior starting with your first day on the job is important. You can always loosen up if you need to, but it is very difficult to tighten up if you start too loosely. Be sure you dress and act in a professional manner. Set boundaries very early for the way you talk about students and parents and with whom you do so. Also be clear about what you can and cannot do – you must practice only within your areas of competence. However, you should quickly develop additional areas of competence to meet needs of your district.
6. *Go slow on school reform.* One of the most frequent complaints of novice school psychologists is about unreasonable supervisor expectations. Be sure you understand your supervisors' expectations and strive to meet them in an ethical and professional manner. Some new practitioners do not understand that the NASP ethical standards are enforceable, whereas practice guidelines are merely advisory. Insisting that your district must comply with national practice standards may be unrealistic. In fact, the NASP *Guidelines* state, "School psychologists adhere to federal, state, and local laws and ordinances governing their practice and advocacy efforts. If regulations conflict with ethical guidelines, school psychologists seek to resolve such conflict through positive, respected, and legal channels, including advocacy efforts involving public policy (Ethical Principle III.D.5). In other words, you may need to "go along" with your employer's expectations while professionally and strategically working toward changing those expectations. However, be sure you do not fall into the trap of just going along to get along. Change will never result from such a strategy.
7. *Develop your power bases.* When seeking change in your district's policies and practices, it is important to use your knowledge and skills as a psychologist. Change requires influencing people. It is important to remember that school psychologists usually have little real authority within a school district but instead function with a blend of both "expert power" and "referent power" (French & Raven, 1959). A psychologist may be able to quickly establish expert power by being knowledgeable, having good credentials and having skills needed by the school district. However, referent power has to be developed. It refers to the ability to influence others and requires charisma and interpersonal skills. It is only developed when clients perceive us as having values and goals that are similar to theirs.
8. *Implement a professional development plan.* There are numerous reasons to immediately develop and begin implementing a personal professional development plan. They include meeting your ethical and professional responsibility to do so, to maintain skills, to cope with changing roles, to develop a specialty, and to maintain your credentials. However, a most important reason is to increase your competence as part of life-long career development. In *School Psychology: A Blueprint for Training and Practice III* (Ysseldyke et al., 2006), the authors assert, "the job of training programs is to ensure that students are at a 'novice' level in all domains by the time they complete the coursework phase of their training, and are at a 'competent' level by the conclusion of internships, with the expectation that "expert" practice will be achieved only after some post-graduate experience and likely only in some domains" (p. 11). The authors suggest that such expertise could take 5–10 years of practice to achieve. (Harvey & Struzziero, 2000), in their book on professional supervision, discuss five stages of growth – novice, advanced beginner, competent, proficient, and expert – through which we progress. They point out that the level at which we function is really "context dependent." That is, we may be very proficient in a certain area of our practice but complete novices in another area. After several years of practice, most school psychologists function at the competent level, but moving beyond that level requires effective supervision of an on-going professional development activity. (For more on professional development, see (Armistead, 2008).)
9. *Develop your EPP problem-solving skills.* Another reason for continuing professional development is to keep up to date with changes in laws, legal opinions, as well as ethical and

professional standards. This chapter has presented a problem-solving model for use with difficult situations involving ethical and professional practices. Your skills with this model and your overall knowledge base about professional practices will continue to improve if you attend workshops on legal issues, talk about challenging situations with your supervisor, and consult with a professional support group.

10. *Take care of yourself.* Finally, take care of yourself. It is much more difficult to practice ethically and professionally if you are under stress and overwhelmed by too much work that you do not feel competent to perform. Use your professional skills to be a *resilient* school psychologist – one who is actively making a career out of school psychology, who is building skills, who is able to manage stress, who knows when to take time away, one who has a social support network, and one who avoids professional burnout.

Chapter Competency Checklist

DOMAIN 1 – Professional, legal ethical and social responsibility domain

Foundational	Functional
Understand and explain the following:	Gain practice:
<ul style="list-style-type: none"> <input type="checkbox"/> IDEA 2004 <input type="checkbox"/> FERPA <input type="checkbox"/> Section 504 of the Rehabilitation Act of 1973 <input type="checkbox"/> Americans with Disabilities Act <input type="checkbox"/> No Child Left Behind Least restrictive environment <input type="checkbox"/> RtI <input type="checkbox"/> Discipline <input type="checkbox"/> Language and assessment <input type="checkbox"/> Medication <input type="checkbox"/> Student rights <input type="checkbox"/> Schaffer v. West <input type="checkbox"/> Ethics principles related to <ul style="list-style-type: none"> Professional competence; Professional relationships; General practice; and Independent practice <input type="checkbox"/> Cultural competence <input type="checkbox"/> Legal and ethical decision making model 	<ul style="list-style-type: none"> <input type="checkbox"/> Relating personal and professional experiences to key foundational concepts <input type="checkbox"/> Articulating questions about law and ethics <input type="checkbox"/> Discussing questions with colleagues and supervisors <input type="checkbox"/> Searching for solutions to unanswered questions

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